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LIMITATIONS ON NATIONAL SOVEREIGNTY IN INTERNATIONAL RELATIONS¹

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Among the traditional political conceptions which in recent years have become the object of almost irreverent attack, is that which ascribes the quality of absolutism to that often elusive, but ever present, double-faced creation of the jurists which bears the name of sovereignty. Text-writers, sometimes in unqualified terms, still persist in claiming for it the unrestricted supremacy which was attributed to it in an age when its wielders everywhere were absolute monarchs; but an increasing number, less influenced by legal theories than by realities, see in it only the "ghost of personal monarchy," as Hobbes characterized it, "sitting crowned on the grave thereof."

On the one side the attack is directed by a new school of political writers, who deny its very existence or maintain that it is not an essential constituent attribute of the state. According to them, the notion is useless if not fallacious; the theory is discredited by the facts of modern state life and the term should be abandoned and expunged from the literature of political science.²

¹ Presidential address delivered before the American Political Science Association at Washington, D. C., December 29, 1924.

² Their views are analyzed and evaluated by F. W. Coker in a recent work entitled, *Political Theories of Recent Times* (1924) by Merriam, Barnes, and others, Chap. III.

On the other side, it is attacked by writers on international law who, while affirming that sovereignty is a necessary attribute of the state, and that viewed as the manifestation of a purely internal power it is legally unlimited, maintain that in its external manifestations, that is, when the exercise of the power which flows from it affects the rights or interests of other states or their nationals, the traditional theory as commonly formulated by jurists and expounded by text-writers is an "archaic," "unworkable," "misleading," and even "dangerous" political dogma—a "baneful fiction" which no longer corresponds with the facts of international life or practice and is, indeed, incompatible with the existence of a society of states governed by a recognized and generally observed system of international law. The term "sovereignty," entirely correct in its purely internal connotation as descriptive of the relation between a superior and an inferior—between the state and its subjects—is inapplicable to the relations between equal and independent states and should, they maintain, either be eliminated from the literature of international law, or the traditional theory should be revised and reformulated so that it will conform to actual international practice.³

³ Among those who entertain this view or appear to sympathize with it may be mentioned: Borchard, "Political Theory and International Law" in Merriam, Barnes and others, *Political Theories of Recent Times*, (1924) Chap. IV.; Brown, *International Realities* (1917) p. 66; also 9 *Amer. Jour. of Internat. Law*, p. 324 and 11 *ibid.*, p. 159; Butler, "Sovereignty and the League of Nations," *British Year Book of International Law*, 1920-21, p. 38; Brierly, *Shortcomings of International Law*, *ibid.*, 1924, pp. 12-14; Dupuis, *Le Droit des Gens et les Rapports des Grandes Puissances*, etc., (1920), pp. 7, 482; Hill, *The Rebuilding of Europe* (1917) Chap. I; also *Proceedings Amer. Society of Int. Law*, 1916, p. 15; Krabbe, *The Modern Idea of the State*, (trans. by Sabine and Shepard) p. 248; Pillet, *Les Droits Fondamentaux des Etats*, etc. 5 *Revue Générale de Droit International Public*, (1898) p. 73; Ralston, *Democracy's International Law*, (1922), pp. 20 ff; Reinsch, "Administrative Law and National Sovereignty," 3 *Amer. Jour. of International Law*, (1909) p. 10; Scelle, *Le Pacte des Nations*, (1919), p. 94; Schücking, *L'Organisation Internationale*, 15 *Revue Générale de Droit International Public*, (1908), p. 22; Snow, "International Law and Political Science," 7 *Amer. Jour. of International Law*, (1913), p. 326; and Sir John Fischer Williams, "International Law and International Financial Obligations Arising from Contract," *Bibliotheca Visseriana*, (1924), vol. II., p. 24.

With the views of the first group of combatants I am not here concerned; those of the second group I fully share and I purpose to examine them briefly in the light of the actual conditions of international life and of international practice. The time at my disposal does not permit a discussion of the nature of the limitations to which the freedom of the State is subject in its relations with other States. It is believed that some of them may, in the present state of the development of international law, be properly regarded as legal restrictions; others are physical, moral, or social; others still, are political, resulting from the practical necessities of international comity or interest. Their technical character is of no great consequence; the important fact is that they are recognized as actual limitations and in practice are generally observed.

Briefly stated, the theory of sovereignty to which exception is taken attributes to the state absolute and unlimited legal power as over against other states and their nationals, subject to no control except that which is self-imposed—the right to determine its own manner of life, to determine and regulate its own domestic policies, to be the judge of its own international obligations, to set its own standards of national conduct, to choose freely its own form of government and to alter it at will—all this without accountability to anyone.⁴

As is well known, the notion of sovereignty originated in the fourteenth century to meet an intolerable situation which then existed. National states were in the process of emerging from the chaos of the Middle Ages and their monarchs found themselves engaged in a struggle with both external and internal adversaries: notably the Empire, the Papacy, and the feudal nobility, who sought to impose upon them their own wills and to prevent the realization of a rapidly developing aspiration of nationality. The kings of France, in particular, refused to recognize any superiors, from within or without, and the French

⁴ The theory is well stated by Dupuis, *op. cit.*, p. 484; by Hill, *Rebuilding of Europe*, Chap. I. and *World Organization and the Modern State*, Chap. I. and by Lansing, "Notes on World Sovereignty," 1 *Amer. Jour. of International Law*, pp. 107, 303.

jurists came to their assistance with a legal theory which served both as a weapon of defense and a justification for the claim of royal supremacy.⁵ In the sixteenth century the conception underwent a transformation; not implying originally the notion of total independence, it was now clothed in the formula of absolutism and was conceived of as the attribute of a power which is not limited by any other will than its own, internal or external. Bodin has been reproached with having been the first jurist to formulate the theory in these terms, but an examination of his discussion of sovereignty will show that what he had in mind was nothing more than the supremacy of the monarch over his own subjects in his own territory and his freedom from the control of other real or pretended sovereigns, such as the Emperor and the Pope, who were endeavoring to reduce him to a condition of dependence upon them. He says expressly that the sovereignty of the state is comprized in this one thing, namely, to give laws to all and each of the citizens and to receive none from them;⁶ that is, it was an internal power—the power merely of a superior over an inferior. He admitted that the sovereign was limited by the law of God, the law of nature, and the law of nations. Sovereignty thus limited is far from being absolute and the reproach to which Bodin has been subjected hardly seems deserved.

It remained for later jurists "taking refuge in abstractions and fictions,"⁷ to apply the term which etymologically and

⁵ Compare the explanations of Sabine and Shepard, introduction to their translation of Krabbe, *The Modern Idea of the State*, (1922), pp. XVIII.-XXX.; of Gierke, *Political Theory of the Middle Ages*, pp. 87 ff. and of Carré de Malberg, *Théorie Général de l'Etat*, vol. I., (1920), pp. 73 ff. M. Carré de Malberg states that both the idea and the word were of French origin. The theory, he says, was born of the struggle during the Middle Ages on the part of the Empire, the Papacy, and the feudal seigneurs. Compare also Meyer, *Lehrbuch des Deutschen Staatsrechts*, 6th ed. p. 5; Rehm, *Allgemeine Staatslehre*, p. 40; and Duguit, *L'Etat*, vol. I, pp. 337 ff.

⁶ *De la République*, I, 8. Compare Hill, *World Organization and the Modern State*, p. 21.

⁷ Le Fur, *L'Etat, La Souveraineté et le Droit*, *Zeitschrift für Völkerrecht und Bundesstaatsrecht*, Bd. I (1907), p. 16. Compare also the views of Borchard, *op. cit.* p. 125 and Kelsen, *Das Problem der Souveränität und die Theorie des Völkerrechts* (1920), p. 102.

historically is descriptive of the relation between a superior and an inferior—between the state and its subjects—to the relations subsisting between separate states. External sovereignty, as one manifestation of it came to be called, was assimilated to internal sovereignty, so that the state was regarded as possessing the same legal right to exercise its will *à l'extérieur* as the French say, that it has over subjects in its own territory. Thus it came to pass that by the end of the eighteenth century Europe found herself under the “incubus of a malign and sinister heritage”⁸ of a juristic theory which attributed to the state an absolute and unlimited legal power, not only over all persons and things within its own territory, but also complete freedom of action in its relations with other states or their nationals, subject to no restraint except that imposed by its own will. This theory of auto-limitation found many partisans among the jurists of the nineteenth century, especially among the Germans⁹ and it has frequently been adopted by judicial tribunals.¹⁰ It is, however, only a legal theory, flattering indeed to national pride, but it is not the principle which is acted upon in practice. In the present state of the development of international law and international relations it cannot be admitted that states are bound only by their own wills, when their conduct affects other states or their nationals.¹¹ The theory is incon-

⁸ It is so characterized by David Jayne Hill in his *Rebuilding of Europe*, p. 14.

⁹ Notably Jellinek, *Lehre von der Staatenverbindungen* pp. 34-36; *Recht des Modernen Staates*, pp. 465-7; and *Gesetz und Verordnung*, pp. 196 ff.; von Liszt, *Völkerrechtlichen Staatenverbandes*; Treitschke, *Politics* (Eng. Trans. by Dugdale and de Bille), pp. 28 ff. and 97; and Ullmann, *Völkerrecht* (1908) p. 6. Compare also de Louter, *Droit International Public Positif*, p. 172, who lays down the broad proposition that considered *à l'intérieur* sovereignty is subject to no other will than its own and that *à l'extérieur* “it signifies absolute independence of all those with whom the sovereign State maintains relations on a complete footing of equality.”

¹⁰ Compare the following from the opinion of Chief Justice Marshall in the case of the *Schooner Exchange v. McFaddon* (1812) 7 Cranch 116: “The jurisdiction of the nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself.”

¹¹ The theory of absolute sovereignty qualified by the doctrine of self-limitation is attacked especially by Nelson, *Die Rechtswissenschaft Ohne Recht* (1917), p. 59; by Kelsen, *op. cit.*, p. 189; by Borchard, *op. cit.* p. 132; and by Krabbe, *op. cit.*, pp. 233 ff.

sistent with the existence of a system of international law which is itself based on the principle of reciprocal rights and responsibilities and involves the very negation of the right of a state to do what it pleases subject to no restraint except that which it has voluntarily imposed upon its own freedom of action.

A society of states in which each member is bound only by its own will would, as Dupuis justly remarks, be an "anarchy of sovereignties."¹² They would, in the language of Hobbes, be in "the state and posture of gladiators with their weapons pointing and their eyes fixed on one another." No state could claim any rights which others would be bound to respect; there could be no justice or injustice as between them, and each would be free to determine fully and finally the limits of its own freedom of action and the measure of its own international responsibility, if any were admitted.

Properly interpreted, sovereignty is a term of constitutional law and political science and not of international law, and it implies nothing more than the legal right of the state to determine its own internal life, regulate its own purely domestic affairs and make law for its own subjects within its own territory. Its power ends at the frontier and even within the national territory it is limited by the rights which international law recognizes as belonging to the subjects of other states domiciled or engaged in business therein. When the manifestation of the will of the state takes effect *à l'extérieur* it is limited by the rights of other states and of their nationals, to say nothing of the rights of the society of states as a whole. The limitation is enforced through the principle of international responsibility which is one of the foundations of international law, and which all civilized states act upon in practice in their relations with one another.¹³

¹² *Op. cit.* p. 7. Some writers have pointed out that the theory of absolute sovereignty is clearly inconsistent with the principle of international justice the promotion of which is one of the objects of international law. In this connection Willoughby suggests that the exercise by a state of a legal right which is inconsistent with justice might very well be regarded as itself an illegal act. *Procs. Amer. Soc. of Int. Law*, 1922, p. 21.

¹³ To this effect see Bluntschli, *Theory of the State* (Oxford trans.) p. 495, who remarks that the State "is not all-powerful, for it is limited externally by

Vattel, in his day, recognized the limitations when he said a nation is master of its own actions so long as they do not affect the proper and just rights of others.¹⁴ Hall,¹⁵ one of the most respected of modern writers on international law, thus states the limitation: "A state has a right to live its life in its own way, so long as it keeps itself rigidly to itself and refrains from interfering with the equal rights of other states to live their life in the manner which commends itself to them."

If we examine in the light of practice the so-called fundamental inherent rights of sovereign states, as they are customarily enumerated in the textbooks, we shall find that they are far from being absolute and unlimited. Take the usually asserted right of the state to establish (and alter at will) such form of government as it chooses. Such a right is emphatically denied by authorities of high repute¹⁶ and in practice it has never been admitted. It was denied by the Powers in 1814 when Napoleon invoked it as a right under the law of nations,¹⁷ and on several

the rights of other States and internally by its own nature"; Dupuis, *op. cit.*, pp. 7, 494; Fauchille, *Traité de Droit Int. Pub.* (1922) t. I, p. 432; Fiore, *Droit Int. Cod.* (trans. by Borchard), pp. 42, 170; Funck-Brentano et Sorel, *Précis du Droit des Gens*, p. 7; Hill, *World Organization and the Modern State*, pp. 39, 140; Lawrence, *Principles of International Law*, p. 116; Lorimer, *Institutes of the Law of Nations*, vol I, pp. 47, 139 (who remarks that no jural entity can be absolutely independent of any other and that the doctrine of absolute independence when applied to States amounts to a total repudiation of international responsibility); Merignac, *Traité de Droit Int. Pub.* t. I, p. 525; Oppenheim, *International Law* (3rd ed.), vol. I. p. 194; and Pillet, 1 *Rev. Gén. de Droit Int. Pub.* 5 and 5 *ibid.*, p. 73.

¹⁴ *Le Droit des Gens*, Introd., sec. 20.

¹⁵ *International Law* (3rd ed.) p. 46. Compare also De Visscher (*La responsabilité des Etats*, *Bibliotheca Visseriana*, t. 2, p. 90) who remarks that "the responsibility of States is, in the international order, the necessary corollary of their equality. If the mutual recognition of their sovereignty implies for each of them the liberty of action which is necessary in the pursuit of their own ends, it places upon each in return the restrictions imposed by the coexistence of other States whose rights are equal to theirs." Compare also the Declaration of the Rights and Duties of Nations adopted by the American Institute of International Law at Washington in 1916 to the effect that every nation has a right to exist and develop itself and to be free of control by other States, so long as it does not interfere with or violate the rights of other states.

¹⁶ For example by Pillet, 5 *Revue Générale* 86; and Hill, *World Organization*, p. 140.

¹⁷ Dupuis, *op. cit.* p. 488.

occasions since then changes in existing forms of government were opposed and sometimes prevented by the action of other states whose safety and the general peace were believed to be menaced by the proposed changes. The establishment of a government which is "notoriously opposed to the existing order of affairs" is admitted to be a matter of concern to international society,¹⁸ and when recognition is sought for newly-established governments practice shows that other states are not indifferent to the character of those which they are asked to recognize.¹⁹ There were indeed official pronouncements during the World War from which it might be deduced that the maintainance of autocratic governments will no longer be tolerated in the present democratic order of the world.²⁰ All statesmen and text-writers are agreed that a state is bound to maintain a form of government which is capable of fulfilling its international obligations and it has often been asserted in international controversies that every state is bound to maintain judicial tribunals so constituted that they may be expected to render impartial and substantial justice to aliens.²¹

It is frequently asserted that every state has a right to extend or contract at will its territorial domain by purchase or cession, but this right, like others, is not admitted in practice. If the safety of other states or the general peace are threatened by territorial changes objection will be interposed and instances are by no means lacking in which they have been prevented by the opposition of other states or by the Powers collectively.²²

¹⁸ Hyde, *International Law Chiefly as Interpreted and Applied by the United States*, vol. I, p. 86.

¹⁹ Thus the refusal of the United States government to recognize the Soviet government of Russia has apparently been influenced to some extent by the character of that government as well as by its policies. Compare Harriman, "The Recognition of Soviet Russia," *Proceedings of the American Society of International Law*, 1924, p. 92.

²⁰ For example, President Wilson's War Message to Congress, April 2, 1917. See in this connection the comment of Wright, 17, *Amer. Jour. of Int. Law* (1923) p. 240.

²¹ Moore, *Digest of International Law*, vol. II. p. 5; Borchard, *Diplomatic Protection of Citizens Abroad*, p. 213, and Wright, *Control of American Foreign Relations*, p. 14.

²² Some instances are referred to by Brierly in the *British Year Book of International Law* for 1924, p. 13. He adds that "the supposed absolute right of a

There has been much discussion lately of the right of every state to regulate its own domestic affairs. Such a right will not be contested. But what are "domestic affairs?" In case there is a controversy between two states, one claiming that its legislation or conduct are domestic matters and therefore within its exclusive jurisdiction, the other claiming that they are matters of international concern, who is the judge as to whether they belong to the one or the other domain? In some recent political utterances language has been employed which amounted to an assertion that each state not only has a right to regulate its own domestic affairs but also the right to determine for itself what are such affairs. This claim cannot be admitted and it is not in accord with international practice. Thus, when Italy by an act of parliament in 1912 created a state monopoly of the life insurance business and expropriated the business of foreign private companies without indemnifying them for their losses, the act was the object of protest on the part of certain foreign governments which vigorously denied that a state has a right under international law to deprive in this way aliens of their property rights and invoke as a defense its alleged sovereignty in respect to matters which it chooses to regard as purely domestic. And when Uruguay in the same year passed a similar law the protests of Great Britain and France were such as to cause the Uruguayan legislature to rescind its action and abolish the monopoly.²³

State to alienate its own territory is a fiction which is suggested to us, not by anything in the practice of States, but by our preconceived notions of what sovereignty ought to imply." Westlake (*Collected Papers on International Law*, p. 131) remarks that a State may alienate its sovereignty subject to the rules of the Society of States, one of which makes every alteration of the map of Europe a matter of common interest to that quarter of the globe, as a landed proprietor may alienate his property subject to the laws of his country."

²³ As to these incidents see Audinet, *Le Monopole des Assurances sur la vie*, 20 *Revue Générale de Droit Int. Pub.* (1913), p. 5; Jèze, 29 *Revue de Droit Pub.* 433 ff. and 30 *ibid.* pp. 58 ff.; and Scelle 30 *ibid.* 637 ff. and 653 ff. In the case of a sulphur monopoly established by Sicily in 1838, an indemnity was awarded upon arbitration, to a foreign national whose rights had been prejudiced by the monopoly (Borchard *op. cit.* p. 182). In the case of Henry Savage an indemnity was likewise obtained on behalf of an American citizen on account of a loss which he had sustained in consequence of the establishment by Salvador of a state monopoly of the manufacture and sale of gunpowder (Moore, *International Arbitrations* p. 1855).

In September of last year the government of the United States addressed a protest to the government of Roumania against a recently enacted mining law which was deemed to be confiscatory of the rights of an American oil company. The reply of the Roumanian government that the legislation complained of was enacted in the exercise of its right of sovereignty and dealt with matters of purely domestic concern was, of course, not admitted, as a legitimate defense to the American claim. Such protests are common in the relations of modern states.

Manifestly if each state were admitted to be the sole and final judge as to what matters fall within its exclusive jurisdiction it might in many cases avoid all responsibility for injuries to other states or their nationals by alleging that its acts fell within its reserved domain of domestic jurisdiction. The Covenant of the League of Nations²⁴ and the recent Geneva Protocol for the Pacific Settlement of International Disputes²⁵ both recognize the exclusive jurisdiction of states over so called domestic affairs, by relieving them of the obligation to arbitrate disputes arising out of such matters; but it should be observed that both conventions expressly limit the exemption to disputes arising out of matters which "by international law" are solely within the jurisdiction of the party so claiming. No party can therefore avoid the obligation to arbitrate by showing that the matter giving rise to the dispute is such merely by reason of its own constitution or laws or because it is so regarded by its own authorities.²⁶ This was the issue before the Permanent Court of International Justice in the French Nationality Cases when the French government contended that the determination of matters of nationality belonged to the exclusive jurisdiction of the state. The British government denied that this was true when it involved the imposition of nationality upon the subjects of other states against their will²⁷ and its view was sustained by the

²⁴ Article 15, sec. 8.

²⁵ Article 5.

²⁶ Compare the observations of M. Castberg in the Swiss *Revue de Droit International*, 1922, p. 198.

²⁷ See especially the argument of Sir Douglas Hogg, *Acts and Documents Relating to the Judgments and Advisory Opinions of the Permanent Court of International Justice*, Series 6, pp. 26 ff.

decision of the court.²⁸ The court also took occasion to observe that whether a matter is or is not solely within the jurisdiction of a state is essentially a relative question and depends upon the state of development of international relations. It results therefore that what may properly be regarded as a domestic matter today, may be a matter of international concern tomorrow.

As Secretary Hughes pointed out in his address before the Canadian bar association in 1923 the "most troublesome sources of irritation are to be found in the subjects which States properly decline to regard as international in the legal sense." And advertising to the general practice of excluding from arbitration disputes arising out of domestic policies, he said: "but in these days of intimate relations, of economic stress and of intense desire to protect national interests and advance national opportunity, the treatment of questions which, from a legal standpoint, are domestic, often seriously affects international relations. The principle, each nation for itself to the full extent of its powers, is the principle of war, not of peace."

The assertion frequently made that the jurisdiction of a state over all persons and things within its territory is "absolute and exclusive"²⁹ is, as a statement of legal theory, indisputable, but it would be pure self-deception to allow ourselves to believe that it enunciates the rule which states actually apply in their intercourse with one another.³⁰ That jurisdiction is limited legally by the principle of international responsibility and it is limited in fact by considerations of mutual benefit and advantage which in practice make necessary "a relaxation of that absolute and complete jurisdiction which sovereignty is said to confer."³¹

²⁸ *Collection of Advisory Opinions*, Series B, p. 24.

²⁹ It was so stated by Chief Justice Marshall in the case of the *Schooner Exchange v. McFaddon*, quoted above. To the same effect see Lawrence, *Principles of International Law*, 7th ed. p. 199.

³⁰ Compare Brierly, "Shortcomings of International Law," *British Year Book of Int. Law*, 1924, p. 13 and Krabbe (op. cit.) p. 240, who justly remarks that "whenever any interest has been recognized as having legal value by an international legal community, the competence of the State as a legal community undergoes a limitation with reference to the valuation of such interests."

³¹ So admitted by Chief Justice Marshall in the case of the *Schooner Exchange*.

The obligation of the state to protect foreigners within its territory and to make reparation for injuries which they suffer in consequence of the fault of the state is asserted by all writers on international law;³² it has been affirmed by international arbitration tribunals in hundreds of cases,³³ and the principle is uniformly acted on in practice by governments. From this obligation results the universally recognized reciprocal right of states to protect their nationals abroad, to demand redress for wrongs imputable to the authorities of a foreign state in which they are domiciled and to intervene in their behalf. This admitted right of diplomatic protection necessarily limits the sovereignty of the state in which aliens are domiciled or engaged in business and the increasing influx and settlement in large numbers of aliens in certain states has had the effect of accentuating correspondingly the extent of the restriction.

When we turn from the limitations on the internal sovereignty of the state, that is, its sovereignty over persons and things within its territory, to the consideration of its freedom of action *vis à vis* other states we find that this freedom is limited by the body of customary international law—one of the chief objects of which is the imposition of restraint upon the external conduct of states—and by conventions whereby states assume obligations and renounce their liberty of action in respect to certain matters. International law requires states to abstain from certain conduct, to acquiesce in the exercise within their territory of the authority of other states in certain cases, to prevent their officers and subjects from doing certain acts and to make reparation for the violation by the latter of the law creating these obligations.³⁴

³² See especially Anzilotti, 13 *Revue Générale*, p. 6, and the authorities there cited; Borchard, *Diplomatic Protection of Citizens Abroad*, especially chaps. IV–VIII; DeVisseher, *op. cit.* pp. 89 ff.; Wright, *Control of American Foreign Relations*, Chap. 10, and Audinet, 20 *Revue Générale*, pp. 12, 16, who asserts that it is a principle of international law that a State is bound to accord to foreigners in its territory the same *civil* rights that it accords to its own nationals.

³³ See notably the decision of Martens in the Case of the *Costa Rica Packet* (5 Moore, *Hist. and Digest of International Arbitrations*, 4453); and the cases cited by Ralston, *International Arbitral Law and Procedure*, Chap. X.

³⁴ Compare Wright, *The Enforcement of International Law Through Municipal Law in the United States*, p. 22.

The acceptance of this law is an essential condition upon which states are admitted to the society of nations; its binding effect is not therefore dependent upon their consent; and it has frequently been asserted by governments that a state which repudiates its authority places itself outside the pale of international intercourse.³⁵

It is a striking tribute to its supremacy that never in any official public act, as Rivier remarks, has any state in our time dared to declare that it would not be bound by this law or its precepts.³⁶ The formal consent of the state is, of course, necessary in the case of conventions enunciating new rules of international law, and it is free to give or withhold that consent, but as regards the generally received customary law—the common law of nations—it is otherwise. In practice states act upon this principle.³⁷

³⁵ See the protest of the diplomatic corps at the capital of Ecuador (1888) and a communication of the United States government to the Ecuadorean government relative to a law passed by the Congress of Ecuador which was pronounced to be "subversive of the principles of international law by which . . . the ultimate liability of governments to one another must be determined," Moore, *Digest of International Law*, vol. I, p. 6. As to the acceptance of international law as a condition of membership in the family of civilized nations, see Maine, *International Law*, p. 38; Phillimore, *International Law*, vol. I, p. 78; Borchard, in Merriam and Others, *Political Theories of Recent Times*, p. 130; Wright, *Control of American Foreign Relations*, p. 358; and Hill, *Procs. Amer. Soc. of Int. Law*, 1916, p. 15. Pillet (1 *Revue Générale*, 10-11) remarks that this principle is a necessary consequence of international society, just as the laws of mechanics are the resultant of elementary physical forces. Hall (*op. cit.* 4th ed. p. 42) very properly remarks that no State living under international law can free itself from its restrictions except by a positive act of withdrawal from the family of nations.

³⁶ *Droit des Gens*, t. 1, p. 22.

³⁷ Westlake (*Collected Papers*, pp. 78-79) declares that when a rule of international law is invoked against a State it is not necessary to show that the State has in fact assented to the rule either diplomatically or by having acted on it. It is enough to show that the general consensus of opinion within the limits of European civilization is in favor of the rule. "International society is not a voluntary but a necessary one and the men who compose any State derive benefits from that society and cannot at their pleasure adhere to it in part and not altogether." Even Lord Alverstone, while insisting in the West Rand Gold Mining case upon the necessity of assent, admitted that a rule of international law was binding if it was "of such a nature and has been so widely and generally accepted that it can hardly be supposed that any State would repudiate it."

It is quite true that in case of conflict between municipal and international law, courts and executive authorities are bound by the former rather than the latter; but this does not mean that municipal law is superior to international law, for the international responsibility of the state cannot be altered in the slightest by such contravening legislation. A state is entirely free to enact such legislation and may compel its own courts to apply it, its executive authorities to enforce it and its subjects to obey it, but it cannot compel other states to recognize its validity.³⁸ It is one of the elementary principles of international law and one that is constantly acted upon in practice that the municipal law of a state is not the measure of its international responsibility and it cannot be invoked as a defense to a claim put forward by another state for reparation for wrongs to the citizens of the latter done in violation of international law.³⁹ It amounts to little in effect, therefore, to concede to national sovereignty the right to enact and enforce legislation contrary to international law, when in the same breath it is declared that if the right is exercised the state exercising it will be held responsible and compelled to make reparation for injuries sustained by other states in consequence thereof.⁴⁰

³⁸ On various occasions the government of the United States has released conscripted aliens, liquor smugglers seized outside the three-mile limit and vessels engaged in taking seals in the open seas when the constitutionality of the municipal legislation under which these acts were done was upheld by the Courts. (See the cases of *ex parte Larrucea*, 249, *Fed. Rep.*, 981 and *In re Cooper*, 143, U. S., 472.) The persons and ships were released upon demand, because the municipal legislation under which they were conscripted or seized was admittedly in contravention of well-established rules of international law. In such cases the American government evidently proceeded on the principle that international law is superior to municipal law.

³⁹ See especially Borchard, *Diplomatic Protection to Citizens Abroad*, p. 181. Compare in this connection an instruction of Secretary of State Bayard to the United States Minister to Colombia, Oct. 13, 1886, Moore, *Digest* vol. II, p. 4. The United States Supreme Court in the *Chinese Exclusion Cases* (130 U. S. 600), while upholding the constitutionality of an act of Congress passed in violation of treaty obligations admitted that the act constituted no defense in international law.

⁴⁰ As Krabbe (*Modern Idea of the State*, p. 234) pertinently remarks, nothing is gained by distinguishing between a legal competence which remains intact and a competence to act which is limited.

It is only when the injured state chooses to submit to such legislation, or is too weak to exact reparation, that the contravening rule of municipal law really prevails over the rule of international law. Therefore, those who like Kohler and Pillet⁴¹ assert that international law is supreme over municipal law are not merely expressing an ideal but are stating what in practice is a fact. It is believed that this was the view entertained by the early writers on international law.⁴² And it makes no difference whether the rules of international law are regarded by jurists and text-writers as law in the technical sense of the term or something else, so long as they are deemed to be binding and for the violation of which states will be held liable.⁴³ It is equally immaterial whether, as is sometimes contended,⁴⁴ courts and executive authorities when they apply its rules enforce them rather as rules of municipal law from which they are assumed to derive their validity, than as rules of international law. The effect is the same whichever view is adopted. The important fact is that the rules are regarded as binding and are applied.

Finally, the assertion sometimes made that each state being independent may interpret for itself how far the principles of international law are applicable, and that in practice states "interpret it for themselves usually as they find it expedient"⁴⁵

⁴¹ *Völkerrecht des Privatrechtstitel, Zeitschrift für Völkerrecht und Bundesstaatsrecht*, 1908, p. 209: *Le Droit International Public, etc.*, 1 *Rev. Gén.*, pp. 9-10; also article *Les Droits Fondamentaux des Etats, etc.*, 5, *ibid.*, p. 82.

⁴² Thus Richard Hooker in his *Ecclesiastical Policy* (I, 10), published in 1592, said the "strength and virtue of the law of nations is that no particular nation can lawfully prejudice the same by any of their several laws and ordinances any more than a man by his private resolutions the law of the Commonwealth wherein he liveth or annihilate that whereupon the world hath agreed."

⁴³ Compare Scott, "*The Legal Nature of International law*, 1 *Amer. Journal*, 832.

⁴⁴ For example, by Willoughby, "*The Legal Nature of International Law*," 2 *Amer. Jour. of Int. Law*, 357.

⁴⁵ This is the view of Professor R. N. Gilchrist, in his *Principles of Political Science*, p. 128. He adopts the Austinian view that the rules of international law are rather rules of international morality than rules of law. He admits that they are usually observed, but asserts that "ultimately the individual states have to say what laws apply to them and how they apply."

is not well-founded in fact. It may be the legal theory but it is not in accord with the practice. States, of course, sometimes assert a claim to be the judges of the applicability and the meaning of the law, just as they sometimes assert a claim to judge of the measure and nature of protection which they are obliged to afford to foreigners and of the degree of responsibility which they owe to other states, and occasionally they are able to impose their interpretation upon weaker states, but their right to do so is never admitted and in controversies between states of equal strength the attempt usually fails.

If we examine the limitations on the freedom of national action established by treaties and conventions we shall be struck by their number and variety. It may now be said that the civilized world is knit together by a vast net-work of international agreements the number of which is said to be in the neighborhood of 25,000⁴⁶ and the number is rapidly increasing.⁴⁷ An examination will show that the most of them limit in some way the freedom of the contracting parties.⁴⁸ To appreciate the full extent and diversity of these limitations it would be necessary to make a digest of all the treaty collections in existence. During the past fifty years a large number of multi-

⁴⁶ This is the estimate of Mr. D. P. Myers in an article on "The Control of Foreign Relations," in the *American Political Science Review*, vol. 11, p. 24.

⁴⁷ Between May, 1920 and October, 1924 the Secretariat of the League of Nations registered 764 treaties. The average is now about 175 per year.

⁴⁸ Thus treaties of arbitration, treaties providing for the investigation of disputed facts, and treaties obliging the parties to submit their disputes to the Permanent Court of International Justice limit their freedom in respect to the making of war and the same may be said of treaties by which the parties obligate themselves not to employ certain weapons or instrumentalities for injuring an enemy, not to erect fortifications on their frontiers or in certain parts of the interior or not to construct certain types of war ships or ships above a certain tonnage or in excess of fixed ratio. The State's freedom of action is especially limited by commercial treaties obliging each party to admit the subjects of the other to enter, reside and carry on business in its territory, to own and dispose of land, to have access to its courts, to attend its public schools, to be exempt from conscription and compulsory loans, to receive the same protection in their persons and property as are afforded to nationals and to depart freely with their goods and effects in case of war.

lateral conventions have been concluded between groups of states and in many cases between virtually the whole body of states, the effect of which has been to create a net-work of common obligations the performance of which necessarily reduces in large degree the domain of national freedom of action. Many of these conventions obligate the parties to enact certain specified legislation or to revise their existing legislation; to take specific measures to facilitate the execution of the treaties; to refrain from certain conduct and to forbid and prevent their subjects from doing certain acts.⁴⁹

The fact that the limitations established by conventions are self-imposed does not affect their character as actual restrictions upon the freedom of the parties.⁵⁰ Theoretically any party may break them or repudiate them *in toto*, but in fact its right to do so is not admitted and in practice it is rarely done, for the principle *pacta sunt servanda* is universally recognized to be the foundation of conventional international law. The only way by which a state may preserve its sovereignty unimpaired is by refusing to enter into conventions which place restrictions upon its exercise. The right to so refuse, of course, belongs to every state, but under the conditions of modern international life the assumption of treaty obligations and the admission of restraints upon national liberty of action is, in fact, often a matter of necessity rather than of choice if national rights and national

⁴⁹ See notably the so-called White Slave Convention (analyzed by Renault in 9 *Rev. Gén.* 497 ff.), the Radio Telegraph Convention, the North Sea Fisheries Convention, the Convention for the Simplification of Customs Formalities, the Convention of February 9, 1920 concerning Spitzbergen, the Washington and Genoa international labor conventions, the Barcelona and Geneva Conventions of 1921 and 1923 relative to communications, transit, etc. As to the nature of the limitations created by the last-mentioned conventions see De Visscher, *Droit International des Communications*, especially pp. 7 ff.

⁵⁰ Schücking, (*op. cit.* p. 122) pertinently points out that these who, while admitting that the State may be bound by its own will, deny that it can be bound by a foreign will are in error, since self-imposed obligations in fact involve the subjection of the State to the control of a foreign will. Thus where a State obligates itself by treaty to surrender fugitive criminals, upon the demand of another State, it is no longer free to act upon its own will but must obey the will of a foreign government when a just demand for extradition is made.

interests are to be secured and advanced.⁵¹ A state which should persistently refuse to admit any conventional limitations whatever upon its sovereignty would ultimately find itself outside the pale of international intercourse and deprived of rights which are essential to its existence and progress.

The old theory of absolute sovereignty *vis à vis* other states fitted in very well with the actual conditions of international society at the time it was formulated by the jurists. Today the situation is totally different. In the place of an "anarchy of sovereignties" we have a society of interdependent states, bound by law and possessing a highly-developed solidarity of interests. Economically the world has become in large degree a unit; it has acquired the character of a delicate organism, each part of which is affected by whatever occurs in other parts.⁵² Writers are not in agreement as to when the transformation of the international community from an aggregation of "distinct sovereignties," as Marshall characterized it, into a juridical society of states actually took place. The date is immaterial; the fact that the transformation had already taken place even before the establishment of the League of Nations is admitted by nearly all writers on international law.⁵³ For a long time the society of states was without organization or institutions and it is not yet fully organized, but it was never purely anarchistic

⁵¹ Compare Wehberg, the *Problem of an International Court of Justice* (trans. by Fenwick) p. 3; and Von Liszt, *Das Völker-recht*, p. 10. Chief Justice Marshall, in the case of the *Exchange v. McFaddon*, while affirming the "absolute and exclusive" sovereignty of every nation within its own territory added that their "mutual benefit being promoted by intercourse with each other and by an interchange of those good offices which humanity dictates and its wants require, all sovereigns have consented to a relaxation in practice . . . of that absolute and complete jurisdiction . . . which sovereignty confers."

⁵² Norman Angell in his *The Great Illusion* (especially chap. III) and in his *American and the New World State* (chap. I) has pointed out how delicate is this organism and how easily economic and financial disturbances in one part of the world react upon other parts. Compare also Wehberg, *op. cit.* pp. 1 ff.

⁵³ See notably Westlake, *Collected Papers*, p. 3; Pillet 1 *Rev. Gén.* 3; Rivier, *Droit des Gens*, vol. I., p. 8; Jitta, *La Rénovation du Droit International*, pp. 185-6; Hill, *World Organization*, chap. III; Lawrence, *The Society of Nations*, chap. I; and the resolution of the American Institute of International Law adopted at Havana, Jan. 23. 1917.

as Jellinek asserted,⁵⁴ from the time it came to be regarded as being governed by law.

Respectable authority indeed is not lacking for the view that even before the establishment of the League of Nations the world had already advanced from the stage of a mere society and had acquired the character of a federation possessing a corporate juristic personality, and that the law by which the rights and duties of its members in their relations with one another are determined is imposed upon them by the society of states and is not the result of agreement among them.⁵⁵ Those who adopt this view maintain, quite logically, that the law of the society of states is superior to the law of any particular member and that the term "international" law is therefore self-contradictory and unscientific and should be replaced by some such term as "super-national" or "supranational" law.⁵⁶ If we disregard the legal theory and consider the facts and practice we shall find much to support this view.

⁵⁴ See Oppenheim's criticism of Jellinek's view, *The Future of International Law* (1921) p. 9. As Oppenheim points out organization is not essential to the existence of a juridical society.

⁵⁵ Such was the thesis of the late Alpheus H. Snow who asserted that "it is not going beyond the fact to say that at the present time the nations and peoples of the world are, by agreements, by commerce, by relationships, and by institutions indissolubly and federally united, so that they together constitute a body politic and corporate which is the law-giving personality above the nations." He adds that it is not necessary that it should be formally created as an institution, its functions defined and organs and agents provided; it exists by recognition of the nations, that is, by society at large. See his article "The Law of Nations" 6 *Amer. Jour. of Int. Law* (1912), p. 894; also his *American Philosophy of Government*, p. 427. French translation in *Rev. Gén.* 1912, pp. 309, 318. Compare also Scott, *The Recommendations of Havana Concerning International Organization*, (1917), pp. 40-41.

⁵⁶ So Mr. Snow maintained in the article cited above. Compare also Hull, *Procs. Amer. Soc. of Int. Law* (1911) pp. 280-289, who advocates a somewhat similar change of terminology. See also Pillet, 5 *Revue Générale*, p. 87, and Krabbe, (*op. cit.* pp. 245-6) who remarks that the term "international" law is really a misnomer and that since "the law of nations has now developed into a super-national constitutional law it would be better in the future to use this term, thus carrying out in terminology the parallelism between national and super-national law." Sir James Fitzjames Stephen in his *History of the Criminal Law of England* (vol. II, p. 35) observed that international law is not law so far as it is international nor international so far as it is law.

Whichever view we adopt regarding the legal nature of the society of states, we are bound to reject the theory that in fact it is nothing more than an anarchy of sovereignties. In its present state of development the absolutist conception of sovereignty, viewed in its external manifestations, is wholly incompatible with the existence of that society and it ought to be abandoned along with that other useless fiction known as the equality of states.⁵⁷

As already stated above, the term is not only inapt, unscientific and confusing, but the notion itself is misleading and even dangerous since it gives rise to illusions and creates a mentality which has often proved to be an obstacle to the maintenance of peace and the advancement of the common interests of states. The pretended "prerogative" of sovereignty has often been invoked to justify national conduct which was in violation of the rights of other states and the common interests of the society of states. It has afforded the basis of the claim asserted by states to close rivers to navigation by peoples inhabiting the upper territory through which they flow, to forbid the transmission of radio telegrams through the air above their territory,⁵⁸ to exclude foreign aircraft from navigating the air above

⁵⁷ Westlake suggests that the term should be replaced by the word "independence," which is a negative conception and implies the notion of freedom from the control of other states rather than the right of a superior to command and control an inferior. Scelle *op. cit.*, p. 94, also advocates this change of terminology on the ground that "independence" connotes an idea of social relations among States analogous to the liberty of individuals. In fact the term "sovereignty" envisaged from the point of view of its external manifestations is used by many writers on international law as synonymous with "independence." See the discussion by Crane in his *The State in Constitutional and International Law*, pp. 49 ff. Hall, *op. cit.* p. 19, remarks that the theory of absolute sovereignty is not necessary to the concept of a legal relation between States. Brierly (article cited, p. 14) suggests that since the traditional theory of sovereignty is qualified by actual practice, it might be reformulated on the basis of the analogy found in the municipal law of many states by which qualifications are imposed on the ownership and use of private property. On this point see also Phillimore, *International Law*, vol. I, (1st. ed.) p. 433 and vol. II, p. 313.

⁵⁸ Rolland, *La Télégraphie Sans Fil et le Droit des Gens*, 13 *Rev. Gén.* 75; Fauchille, *La Télégraphie sans Fil et le Droit International*, 47 *Revue de Droit Int. et de Lég. Comp.*, p. 7 ff.

them,⁵⁹ to confiscate the property of aliens, and to repudiate debts due to foreign bondholders.⁶⁰

An almost superstitious attachment to the theory and the disinclination to abate a jot or tittle of the substance has been the chief obstacle to the organization of the world for the promotion of common economic interests and the establishment of safeguards for the maintenance of the general peace. As is well-known, the conventions of 1907 for the creation of the International Court of Arbitral Justice and the International Prize Court were opposed on the ground that the obligation which they established to have recourse to the former and to allow appeals from national courts to the latter would amount to a surrender of the sovereignty of the states which were parties thereto.⁶¹ Those who so contended overlooked, however, the

⁵⁹ A right now definitely affirmed by the International Air Convention of 1919. (Art. 1.)

⁶⁰ See the reply of the Soviet government of Russia to the Genoa Conference (*New York Times* May 12, 1922). The late Senor Drago in an article entitled *Les Emprunts d'Etat et leurs Rapports avec la Politique Internationale*, published in the *Revue Générale de Droit International* for 1907, pp. 251 ff, invoked the principle of national sovereignty to sustain an argument that when a State defaults in the payment of bonds held by foreigners, or even repudiates them, other States whose nationals sustain losses in consequence thereof have no right to protest or intervene. The issuing of bonds, he argued, is a power of sovereignty and there is no denial of justice in the failure to pay them, because there is no international court with jurisdiction to hear and determine complaints arising therefrom. See the trenchant criticism of this perversion of the concept of sovereignty, by Sir John Fischer Williams in the *Bibliotheca Visseriana*, vol. II, pp. 21 ff.

It may be observed that during the controversy in 1901 between Venezuela and certain foreign governments relative to claims for unpaid bonds issued by the Venezuelan government and held by nationals of the other governments the Venezuelan government, invoking the rights of sovereignty in domestic matters, insisted that the national laws of Venezuela were conclusive as to the merits of the claims in controversy. This contention, of course, was not admitted and it was denied by the mixed commissions to which the claims were ultimately submitted. See G. W. Scott, "Use of Force to Recover on Contract Claims," 2 *Amer. Jour. of Int. Law*, p. 82.

⁶¹ Such was the contention of Barbosa, Beernaert, Carlin, and others. Their arguments are summarized by Nippold, in *Die Zweite Haager Friedens Konferenz*, Bd. I, 93 ff. Such also was the contention of Von Liszt, *Das Völkerrecht*, p. 13, and Pohl in a monograph entitled *Deutsche Preisengerichtbarkeit; Ihre Reform durch das Haager Abkommen vom 18 October 1917*. (Tubingen, 1911.) Pohl argued that an international prize court would be a super (*überstaatliche*) institution to which states would be subordinate.

important facts that the establishment of both courts was a purely contractual matter depending upon the voluntary consent of the states which ratified the Conventions, that the duration of both Conventions was limited, and that by their express terms the privilege of denunciation was reserved to the parties. The ratification of the Conventions would, therefore, have entailed no surrender of sovereignty any more than is involved in the assumption of other treaty obligations.⁶² It is hardly necessary to add that the supposed loss of sovereignty which it would entail has constituted the main argument against the United States joining the League of Nations or even coöperating with it in the accomplishment of its more important objects.

It may not be improper to observe that governments and statesmen in their attitude toward the rights of sovereignty have not always applied the same standard to other states which they insist must be applied to their own; that is, while claiming for their own country an absolute and unlimited sovereignty they have on occasions, asserted that the sovereignty of other states is qualified and limited by the rights of all.⁶³ Thus in

⁶² This was pointed out by Schücking, *op. cit.*, pp. 99, 122, 124; by Hold von Ferneck, *Eine Lanze für den Prisenhof*, *Zeitschrift für Völkerrecht und Bundesstaatsrecht*, Bd. 6 (1913) pp. 1 ff. Compare also Oppenheim, *The Future of International Law*, p. 44, and Root 15 *Amer. Jour. of Int. Law*, p. 8.

⁶³ American statesmen have uniformly maintained the theory of the absolute and exclusive sovereignty of the United States but during the controversy with Colombia concerning the Isthmian Canal treaty it was contended by high authority that the sovereignty of Colombia was limited by the right of other states to have the canal constructed in any event. Compare the following from an address of Mr. Elihu Root on "The Ethics of the Panama Question" before the Union League Club of Chicago, Feb. 22, 1904 (printed in Senate Document no. 471, 63rd. Congress, 2d. Session, p. 39): "By the rules of right and justice universally recognized among men and which are the law of nations, the sovereignty of Colombia over the Isthmus of Panama was qualified and limited by the right of the other civilized nations of the earth to have the canal constructed across the Isthmus and to have it maintained for their free and unobstructed passage." As a universal principle equally applied, this view we believe is sound, but in the particular controversy it was put forward by those who asserted it as a justification of conduct by their own government, the rightfulness of which was denied by that one whose sovereignty had been contested. Would they have admitted the validity of the principle asserted if it had been applied to their own country?

controversies that have arisen, the view of a particular government as to whether sovereignty is unlimited or qualified has often depended upon the answer to the question, whose sovereignty was actually involved, its own or that of the other party?

It is entirely natural that states should manifest a reluctance to assume obligations the effect of which would be to limit their own freedom of action and especially those which involve in any degree a renunciation of what they consider their sovereignty. "The theory of absolute and exclusive sovereignty," as an eminent French jurist remarks, "flatters the national pride, favors ambition and gives the illusion of security. Pride rejoices in being master and in not being obliged to bow before any other master; ambition finds pleasure in the right of undertaking everything for which strength promises success; the mirage of omnipotence gives to weakness the illusion that absolute sovereignty covers it and that the state cannot without peril renounce this shadow of protection."⁶⁴

It is believed, however, that this reluctance of states to admit even self-imposed limitations upon their own freedom has often been due in part to a misconception of what is really involved in the acceptance of such limitations, and in part to the failure to appreciate fully the benefits which would result to themselves and to the community of states, in the reciprocal assumption of obligations and the renunciation of unlimited freedom of action. In fact, no surrender of sovereignty results from the voluntary assumption of contractual obligations; sovereignty is lost only when a state has been deprived, against its will, of its freedom of action, by an external power.⁶⁵ It is hardly necessary to observe also that the renunciation of liberty of conduct through treaty engagements is usually reciprocal; whatever one party renounces the other party or parties renounce equally, so that as among themselves they are all left on the same footing of equality as before the renunciation.

Manifestly, if every state should, in practice, conform its conduct to the theory of absolute sovereignty and refuse to

⁶⁴ Dupuis, *Le Droit des Gens et les Rapports des Grandes Puissances*, p. 495.

⁶⁵ Compare Oppenheim, *The Future of International Law*, p. 11.

assume any obligations which involved restrictions upon the exercise of its sovereignty, the condition of international society would, indeed, be that which Hobbes in his day conceived it to be. Limitations upon liberty is the price which must be paid for all social progress, whether it be local, national, or international. All advance in the development of conventional international law, in the progress of international organization, and in the promotion of the common interests of the community of states, has come through mutual restraint and concession voluntarily imposed or granted by states.⁶⁶ Particular states have often found that their own security and welfare could be better promoted by surrendering their sovereignty and uniting in federal unions rather than by remaining independent.

More and more, states in general have found it to their advantage to accept limitations upon their freedom; they have found that the benefits obtained thereby usually more than compensate for the loss of the freedom thus sacrificed; often indeed it has been a matter of necessity in order to acquire essential rights and advantages which could not otherwise be obtained. It is believed that the guiding principle which should be followed in determining whether an international obligation can be safely assumed or a restriction upon national sovereignty accepted, should be sought less in the extent of the obligation than in the value of the object sought to be accomplished. The price exacted may sometimes seem excessive, yet the object to be achieved may be of immense value to the state and of inestimable benefit to international society as a whole.

⁶⁶ Compare on this point the remarks of the late Secretary of State, P. C. Knox, before the Pennsylvania Society of New York, December 11, 1909, published in 4 *Amer. Jour. of Int. Law* 181 and an address of Viscount Grey on the League of Nations, *New York Times*, June 30, 1918.

IBSEN'S POLITICAL AND SOCIAL IDEAS

PHILIP GEORGE NESERIUS

Man, "to be himself," is "to realize himself." This fundamental thought became a beacon of light which Ibsen unhesitatingly followed through financial distress, through social isolation, and through severe and often malicious criticism by his contemporaries. To advance the country and elevate the people was Ibsen's cardinal aim, which he consistently strove to attain.¹ He dared to be himself; he spoke the truth when he saw it, and fought for his convictions. If one never commits himself, he never expresses himself; his self becomes less and less significant and decisive. Calculating selfishness is the annihilation of self. This was not true of Ibsen. In a letter to Björnson he says: "Had I to decide on an inscription for the monument, I should chose the words: 'His life was his best work.'" So to conduct one's life as to realize one's self seems to be the brightest attainment possible to a human being. It is the task of one and all of us, but most of us bungle it."² Ibsen strove for this attainment, firmly believed in living his self, in being taken as his own personality, in being understood. He separated himself from his own parents, because a position of half-understanding was unendurable to him.³ He also left his country, voluntarily exiling himself, to be better able to deliver his message. During this period of residence abroad nearly all of his works were written. He faced a storm of discussion, approving and disapproving, which must have assured him that he had again aimed correctly and struck well at another timeworn, declining institution of society.

Such blows Ibsen deemed necessary to arouse the people from

¹ *Samtliche Werke*, Bd. 1, Intro.

² *Letters of Henrik Ibsen*, p. 359.

³ *Ibid*, p. 146.

the rut into which their thinking had fallen, to present to them problems which they had not stopped to analyze and indicate to them that a solution was possible, though the future would have to work it out for them. The idea of reforming organized institutions and above all of bringing about political reforms was repugnant to Ibsen. It was a wrong aim, for nothing can set society right, except society itself by living its self in unrestrained freedom.⁴ To aid society in finding its weak points, by shattering its long cherished idols, by leading it on to the truth was his aim. Ibsen has opened channels for discussion which practically deal with all the fundamental phases of human life. His attitude toward the relation of the individual to society, toward democracy in general and, above all, his view on the emancipation of women are phases of his works which captivate and hold the interest of students.

Ibsen does not, as Schiller and Goethe, picture the struggle of one suppressed class of society against another, not even the struggle of the masses against tyranny, but the revolt of an individual against existing society and against the conditions such society creates. In the *Catiline* we have the work of a genius in revolt against the ruling class and institutions.⁵ His tendency to view the individual as a unit, whose interests are diametrically opposed to the general interests of the state, dates from this work. Henceforth, his entire thought revolves about the relation of the individual to society, and this becomes the chief and central problem of Ibsen's writings. He directs his revolutionary polemics against the government of human society as at present organized.

Ibsen is the most convinced and consistent poetic champion of individualism. Early in his career he was fascinated by the virtue of self-reliance, militantly advancing against the authority of state, church and family. The conflict between the individual and the political state, the individual in discord with the authority-sanctioned superficiality of the church as a religious institution, we meet in *Catiline* and in *Brand*. Brand advances forcibly

⁴ Heller, O., *Henrik Ibsen*, p. 67.

⁵ Reich, Emil, *Henrik Ibsen's Dramen*, p. 14.

against the spiritual lassitude that prevents the individual from developing a more personal and, therefore, more intimate feeling for his religion. "Formerly each man was a member of the church, now he is a personality."⁶ It is this expression of one's personality that does not suit the Provost, the representative of society as it is. He thus expresses it to Brand: "Hitherto you paid too much attention to the particular needs of individuals; between ourselves, that is a grave fault. Weigh them in the lump, comb them all with the same comb; believe me, you will not repent it."⁷ But since Brand is not that kind of shepherd, he cannot conform to the principles of life as outlined by the Provost, and totally misunderstood by the people among whom he had lived and worked, he dies as he had existed on the height unattained by any other fellow-being of the lowland.

In *Love's Comedy* Ibsen challenges society to the fight for moral and intellectual consistency against universal sham. The weakness of society is the general belief or pretense that love, ideal and lofty, is everlasting in the union of lovers. Falk takes it upon himself to expose the irony of this belief and to denounce society for sheltering and perpetuating such a lie. Viewed in the light of his later utterances on similar occasions, we feel the depth of Ibsen's indignation against such social lies in Falk's words:

And this they think is living, Heaven and earth,
Is such a load so many antics worth?
For such an end to haul up babes in shoals,
To pamper them with honesty and reason,
To feed them fat with faith one sorry season?⁸

And in reply to Svanhild's suggestion to flee, he says:

Is not the whole world everywhere the same?
And does not Truth's own mirror in its frame
Lie equally to all the sons of men?⁹

Falk strives to free himself from the evil of the social lie, for to him to be free means to do what he is called upon to do, to assist in fighting sham and pretense.

⁶ Archer's translation of Ibsen's Works, III, p. 232.

⁷ *Ibid*, p. 230.

⁸ *Ibid*, Vol. I, p. 430.

⁹ *Ibid*, Vol. I, p. 431.

Before Falk can hope to succeed in the task he must first educate himself; he must work out his own salvation, before he can be of service to the community. It appears that from aimless attack upon the existing order, Ibsen changed to the exaltation of the individual, following him and guiding him in his process of self-education and, to anticipate, in a further progress thence to the successful socialization of the developed individual.

Consul Bernick of *The Pillars of Society* is subjected to such an ethical education, with the aim of making him the outpost of a truthful community. The play is a serious accusation against society, against the moral foundation of modern society. Consul Bernick owes his success, his reputation and even his family happiness to a lie and to his moral cowardice. His fear of public opinion, his struggle to keep up appearances, make him a despicable coward.

Ibsen discloses unsparingly the very depth of moral depravity existing in society, and particularly in the circles which should look out for its welfare and guide it. He questions what society gives to the individual. Is society willing at any cost to improve, is society willing to follow a leader? Not unless this leader caters to the populace and assures it of immediate gain.¹⁰ But a man who has no sense of subordinating his individuality to mere local community interests can seek no understanding with society; the voice of society condemns such a truth-loving individual and far from considering him a friend of the people, pronounces him an enemy.

In the *Wild Duck* Ibsen questions whether he had any right to demolish the ancient moral to save the individual.¹¹ Is it not better for the individual to remain in the illusions in which he has been brought up, in the belief of his own importance and of his relation to society? Rob the average man of his life-illusions and you rob him of his happiness at the same time.¹²

In the *Little Eyolf* Ibsen changes from egoism to altruism. Here the individual places the interests of society above his own,

¹⁰ Litzmann, B., *Ibsen's Dramen*, p. 63.

¹¹ Boettcher, F., *La Femme dans le Théâtre d'Ibsen*, p. 133.

¹² *The Wild Duck*, Act v, p. 372.

subjugating his own self by striving to provide others with a loftier and better life. The individual does not liberate himself from his selfish purposes and intentions, because he does not live and work for the sake of others,¹³ His only aim is to lord it over others and he strives to attain the social height from where he can best do so. Extreme individualism, according to Ibsen, which disregards the surrounding conditions and limits set for it by social requirements, cannot succeed. A broader conception of the world is necessary to make the work of the individual really effective for society. The individual to be influential must always be above the society in which he lives.

Ibsen never considered himself a child of a people, a leader of a group, a member of society, or a part of a whole; he felt himself exclusively a gifted individual, and the sole object in which he believed and for which he cherished respect was personality. It is through personality that supreme truth can be achieved and the rebirth of humanity accomplished, against whose progress society and its chief agent, the state, at present stand. The future will solve the problem of this transformation and bring about the third kingdom. Ibsen lends his personality to illumine the road and to lead those who walk in the dark.

IBSEN'S ATTITUDE TOWARD DEMOCRACY

As early as 1849, Ibsen became engrossed in political matters; he was as revolutionary, as a young man with strong convictions of liberty and freedom frequently is. Though it is claimed that he never was at heart a red-hot revolutionist,¹⁴ it cannot be denied that during the years 1850-51 he was intensely interested in the socialistic ideas stirred up by events in France, and openly joined the opposition to the existing regime by working for a political journal.

Ibsen's politics deal with the individual, the advocate or representative of an outspoken tendency. His political ideas never became theoretic or dogmatic,¹⁵ except where they touched upon

¹³ Litzmann, B., *Ibsen's Dramen*, p. 161.

¹⁴ Heller, O., *Henrik Ibsen*, p. 66.

¹⁵ Lothar, R., *Henrik Ibsen*, p. 24.

the organization of the state, which he regarded as the curse of the individual, and which he was willing to fight. The state, he held, at its best can provide the individual with civic privileges only, can treat him as a citizen, and can take care of his material welfare, paying little or no attention to his spiritual interests. The political situation in Norway at that time, when the majority of the members of Parliament were rural representatives, considerably influenced Ibsen's conclusions.¹⁶ In a letter to Brandes he says: "As to liberty, I take it that our dispute is a mere dispute about words. I shall never agree to making liberty synonymous with political liberty. What you call liberty, I call liberties; and what I call the struggle for liberty is nothing but the constant living assimilation of the idea of freedom."¹⁷ Liberty, as ordinarily understood, is only for the citizen, and the individual does not necessarily have to be a citizen. "On the contrary—the state is the curse of the individual. . . . The state must be abolished! In that revolution I will take part. Undermine the idea of the state; make willingness and spiritual kinship the only essentials in the case of a union and you have the beginning of a liberty that is of some value."¹⁸

Ibsen's assertion that free choice and spiritual kinship are the only binding qualities for a union might lead the uninformed to think that the defender of the rights of the individual was advocating an anarchistic state of society. Nothing was further from Ibsen's mind in his later years, in the period of his greatest productivity, than to hold and express in his works socialistic and even democratic ideas in connection with organized society. In devoting himself to the cause of the individual he had conceived of a state of society that might be termed a loftier form of aristocracy. He looked forward to a time when human minds and emotions shall be beyond the necessity of external supervision and control, to a development of the individual, so wonderful in its efficacy that under enlightened anarchy mankind would attain an almost ideal state. But such an ideal state must remain

¹⁶ Reich, Emil, *Henrik Ibsen's Dramen*, p. 95.

¹⁷ *Letters of Henrik Ibsen*, p. 208.

¹⁸ *Ibid.*

visionary, the hope of the poet and the philosopher,—while the common people continue synonymous with the mob: ignorant, foolish, reckless and easily led astray by their passions.

Ibsen expressed himself publicly to that effect in a brief address at a workingmen's meeting at Trondjeim (1855) when he said: "There remains much to be done before we can be said to have attained real liberty. But I fear that our present democracy will not be equal to the task. An element of nobility must be introduced into our national life, into our parliament, and into our press. Of course it is not nobility of birth that I am thinking of, nor of money, nor yet of knowledge, not even of ability and talent. I am thinking of nobility of character, of will, of soul."¹⁹ Before this transformation within mankind shall take place, the ideal state cannot come to pass.

Again and again, Ibsen emphasizes the necessity of a revolution of humanity from within, and scorns the political attempts to establish democratic forms of government. Commenting upon the events taking place in France in 1870 he says: "Liberty, equality, and fraternity are no longer the things they were in the days of the late-lamented guillotine. This is what the politicians will not understand, and therefore I hate them. They want only their own special revolutions, revolutions in externals, in politics, etc. But all this is mere trifling. What is all-important is the revolution of the spirit of man."²⁰ Yet, democracy itself stands in the way of such revolution for democracy, says Ibsen, gives the individual no opportunity to develop, to rise above his surroundings, to push his head above the common level. Democracy insists on having the individual conform to its levels. It tends to a dead level and opens a way for the commonplace; it equalizes, generalizes and standardizes men, making them alike in ideal, thought and emotion.

All this was contrary to Ibsen's principles and beliefs, for he never doubted that it is given to the individual, alone, to attain the acme of culture and civilization; the mob can only hinder. In *Brand* we witness the struggle of the individual with the majority.

¹⁹ *Speeches and New Letters of Ibsen*, p. 53.

²⁰ *Letters of Henrik Ibsen*, p. 205.

Brand, the idealist, is expelled and stoned when the majority that follows him for only a brief while realizes that the ideals he had held out to them cannot readily be materialized. The society in which Brand lives is based on concessions and compromises, on selfish aims and material advantage. It is not yet educated to the altruistic and lofty point of view where it can understand and follow a spiritual leader.

In the *Enemy of the People* we have the struggle of the individual with the "compact" majority, intensified by his personal experience obtained through the stupidity and harmfulness of the populace. Who is right? The individual or society? Does not democracy stamp itself as a fallacy and a time-worn superstition, for whoever believes that the fools outnumber the sages, cannot think otherwise than that in a democracy justice and wisdom are most likely to be overruled. The individual alone is right, and the "compact" majority can only represent the low and wicked in society. The majority can, therefore, never be the herald of progress, and it is left to the individual alone to hold aloft "the banner of the ideal." Such an individual must stand on a height by himself and cannot have a majority around him.²¹

"I maintain," says Ibsen, "that a fighter in the intellectual vanguard can never collect a majority around him. In ten years the majority will, possibly, occupy the standpoint Dr. Stockman held at the public meeting. But during these ten years the Doctor will not have been standing still; he will be at least ten years ahead of the majority. He can never have the majority with him."²² Ibsen views his hero's attempt to deliver his message to the mob, which has but little regard for him as an individual, as a sacrifice of self for the public good. He leads him to the conclusion that he can only achieve his aim by remaining alone, he leads him to realize that the strongest man is the one who stands by himself, he permits him to turn to the future for a solution of the problem and face the coming dawn as schoolmaster to the generation that is to help on its own progress.

At heart, though, Ibsen sided with political freedom as he did

²¹ Archer's transl. of Ibsen, I. Intro. xiv.

²² *Letters of Henrik Ibsen*, p. 370.

with freedom of conscience in any form and, therefore, joined in many demands of the Liberals. He was no advocate of any political party or tendency, and in his *League of Youth* did not mean either to criticize liberalism or to defend conservatism. His object was to fight pretension, in this case the idle Liberal phrase, so often found in the mouths of those who use it for selfish purposes. When Ibsen relieves himself in an outburst like "The Liberals are the worst enemies of freedom," or "the Liberals are most treacherous enemies of free men," he refers to the tyranny of "liberals" in intellectual things. The arraignment was meant for the sham reformers whose short-ranged vision is a greater obstacle to progress than a reasonable and principled conservatism.²³

In a letter to Brandes he says: "It will never, in any case, be possible for me to join a party that has the majority on its side." And further on: "I must of necessity say 'The majority is right.' Naturally I am not thinking of that minority of stagnationists who are left behind by the great middle party which with us is called Liberal; but I mean that minority which leads the van and pushes on to points which the majority has not yet reached. I mean that man is right who allied himself most closely with the future."²⁴ In his own opinion, then, Ibsen was right; in our opinion, well, suppose we too follow the lead of the philosopher, and leave the decision to the future.

IBSEN ON THE EMANCIPATION OF WOMAN

The choice of Ibsen's material and its presentation show that the author expected some definite contribution from woman toward the solution of the cultural and social problems. Ibsen explores women's soul with unusual skill, broadening the dramatic world, and adding woman to what had seemed until then "a world of bachelor-souls."²⁵ He furthermore chooses the married women for his heroine, presenting her in her relation to her home, family, and society.

²³ Heller, O., *Henrik Ibsen*, p. 89.

²⁴ *Letters of Henrik Ibsen*, p. 349.

²⁵ *Pillars of Society*, Act IV, p. 408.

Shall woman be an individual? Then she must not be restrained from exercising her individuality, for the foundation of the social structure rests on the intelligent relations of the sexes. Brandes says: "As far as I can judge, the idea of woman's emancipation, in the modern acceptance of the phrase, was far from being familiar and dear to Ibsen at the outset of his career."²⁶ There is a gradual increase in the complexity of the problems which confront his feminine characters and in the nature of the characters themselves. In regard to the latter his early works deal with two separate types of character: one depicting the virtues of the angelic woman, the other her diabolic prototype. He divides women into two distinct classes, those controlled by their wills and those led by their hearts. He keeps the two classes well apart, blending them only in *Lady of Oestrot*, to show the tragedy that arises when heart and will conflict. His sympathies are decidedly with the strong-minded and self-asserting type of woman, the sort that is meant by Margit (*The Feast at Solhaug*): "Aye, those women . . . they are not weak as we are, they do not fear to pass from thought to deed;"²⁷ or by Hjordis (*The Vikings*): "The strong women that did not drag out their lives tamely like thee and me."²⁸ In spite of his sympathies, however, Ibsen allows the altruistic women to carry off the victory in the struggle between altruism and egoism. From *Love's Comedy* to *Emperor and Galilean*, woman does not go through that struggle, but fights to draw the soul of man toward virtue, sacrificing herself together with him for society. In both groups woman plays but a subordinate part, and only in his social plays does Ibsen assume his permanent stand, that of considering woman as an individual and claiming individual freedom for her.

After Svanhild in *Love's Comedy*, the chain of strong female characters is for a time broken. In the *Pretenders* none of the women exist for themselves, but live for those whose aim they help to accomplish. In the *Pretenders* as well as in *Brand*, the woman's problem as a loving wife consists of unconditional

²⁶ Brandes, Georg, *Eminent Authors of the 19th Century*, p. 452.

²⁷ Act. I, p. 231.

²⁸ Act. II, p. 157.

loyalty and unlimited self-sacrifice, no matter what the demands of the husband may be. Agnes in *Brand* goes so far in that respect as to become a martyr in the end. Solveig in *Peer Gynt*, too, is an ideal figure of Ibsen's womanhood, whose greatness and strength of heart consist in her belief and trust and in her readiness to sacrifice herself. But Solveig is a little more than a victim of Peer Gynt's demands. She serves to indicate Ibsen's belief that woman is fundamentally society's support. In this case it is the pure woman, the basis of social morality, that proves to be society's redemption.

With the *League of Youth* Ibsen introduces the woman who begins a long and persistent fight for recognition. Selma is only one of the links connecting Nora with Margit. She, too, craves to be more than a mere toy for her husband: she wants to share the fortunes and misfortunes of the house. True marriage should be distinguished from mere choosing of a mate, in that the husband looks upon the wife as his peer and partner, entitled to share his anxieties and troubles, as well as his successes. Then is the woman an end in herself, or is she a means toward realizing the ideal of collectivity?

Ibsen's sympathies are evidently not with the general belief that woman should be naught but wife and mother. In *Lona Hessel*, for example, he shows the self-supporting, self-protecting, active woman, who knows how to take care of herself and her interests. She becomes the only real pillar of society by living her own life, unbound by conventionalities and unrestrained by tradition. The woman who sang in American vaudeville and wrote eccentric books to support herself and her half-brother, dependent on her, is the one of all the pillars of society to hold up "the banner of the ideal," the banner of truth and freedom—not political freedom only, but freedom from the shackles imposed by false notions of respectability and fear of public opinion, from chains forged by wrong aims of life such as the love of worldly distinction. In the spirit of such truth and freedom she—and through her Ibsen—sees the pillars of society which originate in the relations of men and women, especially as represented in marriage and in family life. Dina Dorf, for example, in the *New*

World begins life not as a thing which John Tonnesen had simply taken unto himself, but as her husband's equal, co-worker, and comrade—thus representing the younger generation which initiates their emancipation.

In the *Doll's House* Ibsen champions the right of woman, defends her claim to a life of her own aside from that of wife and mother. Is she to be regarded as an individual, or should her liberty be limited by the interest of the community? This and the similar situation in *Ghosts*, "Just because she is a woman, she will, when once started go to the utmost extreme,"²⁹ shows how far Ibsen's respect for women exceeds his respect for men.

In his later works³⁰ Ibsen, though with continued faith in the powers and glory of woman, modifies and restricts her sphere of action. With *Hedda Gabler* he had reached the conclusion that it was not the woman of masculine intellect and ability who propped the beam of society, but the ideal woman, the wife and mother with noble instincts, who reigns supreme over humanity by power of her virtues. In his last two dramas, women have missed their vocation as women. His last two plays, *John Gabriel Borkman* and *When We Dead Awaken* are more sceptic of the high ideals of women. But in *When We Dead Awaken* Ibsen returns to his original contention that woman is to be regarded as a personality and not as a piece of property. He continues to give his modified view by allowing Irene to say: "I should have borne children into the world—many children—real children—not such children as are hidden away in grave vaults. That was my vocation,"³¹ meaning that there Irene would have realized herself, would have lived her individuality.

These conclusions the philosopher finally reached, publicly subscribing to them when on May 26, 1898, at the festival of the Norwegian Women's Rights League in Christiania, he said: "I must disclaim the honor of having consciously worked for the women's rights movement. I am not even quite clear as to just

²⁹ *Letters of Henrik Ibsen*, p. 351.

³⁰ *John Gabriel Borkman*, *When We Dead Awaken*, *The Master Builder* and *Little Eyolf*.

³¹ *When We Dead Awaken*, Act II, p. 419.

what this women's rights movement really is. To me it seemed a problem of humanity in general." Again: "The task always before my mind has been to advance our country and give the people a higher standard. To obtain these two factors are of importance: it is for the mothers by strenuous and sustained labor to awaken a conscious feeling of culture and discipline. This must be created in men, before it will be possible to lift the people to a higher plane. It is the women who are to solve the social problem. As mothers they are to do it. And only as such can they do it. Here lies a great task for woman."³²

³² *Speeches and New Letters of Henrik Ibsen.*

SCIENTIFIC RESEARCH AND STATE GOVERNMENT

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The operation of the newly devised systems of centralized control in state government has naturally raised many questions of the relative duties and responsibilities of department and bureau officials on the one hand and of the supervising and controlling authorities on the other.¹ The process of change from an established method of conducting public business to another, based on different principles and requiring new obligations on the part of officers expending money is bound to be a period of readjustment accompanied by a certain amount of friction. This will be the more certain as the new system differs more widely from the old and restricts more completely the freedom of action formerly reserved to heads of the various state services.

The establishment of the state board of public affairs in Wisconsin in 1911, the enactment of the Civil Code in Illinois in 1917, the enactment of the Ohio Civil Code in 1921, and the legislation of Massachusetts culminating in the creation of the board of administration and finance, all made wide departures from the system of administration hitherto in operation. The essential characteristic introduced in each case was the imposition of an agency of review, of supervision, and in many respects of control upon officers and commissions who had hitherto conducted the work of their respective offices for the most part subject only to the necessity of securing approval of their expenditures by the auditor or controller.

Recent years have furnished the occasion for the testing of the

¹ This article is a summary of a monograph prepared by the writer for the National Research Council entitled "An Evaluation of Systems of Central Financial Control of Scientific Research in State Governments," to be published in the Bulletin Series of the National Research Council.

new regime under varying conditions. As a result of experience to date widely diverse opinions are held as to the wisdom and expediency of present methods. On the one hand it is asserted that the necessity for economy and for the elimination of waste requires that expenditures of public money be scrutinized with the greatest care and by some authority independent of the expending official; that the necessity for balancing income and expenditure requires centralized control of the whole financial process; that the desirability of comparing the expediency of various proposed expenditures, each with the other, in order to insure the wisest possible use of the limited funds available requires a single agency for the authoritative review of estimates, the preparation of a budget, and the supervision of all phases of state finance.

On the other hand it is asserted that the accounting forms imposed are in some cases too detailed and too complicated for research agencies, which are usually small and frequently deal with a type of expenditure somewhat different from that of a typical government bureau; that the "red tape" involved is vexatious and expensive; that the specialized purchasing which is required for their work is not properly handled by central purchasing agents; that their work is delayed by the necessity of securing approval of other authorities; that those authorities possess neither the specialized knowledge nor the sympathetic understanding requisite to a proper decision on matters of expenditure for research purposes; and that the ultimate responsibility for the work of the department is being transferred to the department of finance.

It must be borne in mind always that the prime concern of the American commonwealth is not scientific research but either routine administration of its business, or the application of the results of science to the solution of its problems. The administrative system consequently must be organized in view of the primary task to which it addresses itself. State administration also still works in the shadow of the spoils system to a degree varying from state to state, but absent in few of them. The protection of the administration from favoritism, from spoils, and from

diversion of public funds necessarily is one of the considerations on which the general administrative structure must be reared. Hence many formal requirements as to reporting and accounting, and many incidents of supervision which in specific cases appear vexatious and irritating, are properly justified in view of the situation as a whole. There are, of course, important advantages in a unified accounting system. Only by this means can proper comparisons be made between one service and another, or between present and earlier costs of the same service; and for purposes of informing the legislature and the public a single accounting system is essential.

On the other hand, the state is interested in securing the maximum possible results in any activity which it undertakes; and the far-reaching results of scientific investigation are of the greatest importance, if not to the current administration of its business, at least to the ultimate welfare of its citizens. If the state desires to support scientific research, either in the state university or in its administrative bureaus, it should so far as possible provide the best working conditions. It is by no means settled doctrine that a system of control which is desirable for the supervision of routine administration is equally necessary or desirable for the conduct of bureaus engaged in research. Indeed, there are obvious points of difference in the two cases. A bureau or institution engaged in scientific activity is guided by certain professional standards which may properly be relied upon to replace in part the administrative supervision which seems necessary to prevent waste and extravagance in other bureaus. Individual competence is more likely to be secured in a scientific agency, although the prevalent low salaries cause a regrettably high rate of turnover among well-trained men. The methods and objects of scientific investigation are such as to unfit an administrative official from exercising a type of control which is proper in other cases. Furthermore, owing to the professional character of the work and the inability of the ordinary political appointee to perform it, there is less likelihood of political interference. These points of difference, therefore, make it at least an arguable point whether state bureaus and institutions engaged

in research may not properly claim special treatment within the structure of central financial control.

On the other hand, scientists themselves, with the objective point of view which is characteristic of the profession, should be the first to recognize that the wasteful and inefficient methods of state government which have prevailed almost universally until recent years have little claim for consideration and no claim for their perpetuation. A more closely articulated, more highly organized system of administration, with a greater degree of supervision over administrative methods and policies by bureaus specially designed for the purpose, is not only inevitable but desirable. So far as scientists can do so without a sacrifice of scientific achievement, they should be the first to welcome and support methods of government which give assurance of the elimination of waste. If so minded they can do much toward shaping the forms of administrative control which are proposed; if, however, they interpose a *non possumus*, they not only will fail to block administrative reform, they will also be caught the more closely in its meshes.

In the history of the administrative agencies in Illinois a point was reached as early as 1905 at which the statutory authority of the governor in many instances to review expenditures had become a physical impossibility owing to the large number of independent agencies and the heavy draft on the governor's time from various sources. To enable him to perform by deputy a part of the work of approving vouchers the legislature established in that year an official known as the institution audit clerk.² From 1905 until the adoption of the Civil Code the general assembly made an appropriation to the governor for this employee, the importance of whose work was reflected in the salary provided, (\$3,000) which in 1905 equalled that of the highest administrative positions. The enactment of the Civil Code in 1917 provided for the enlargement of the work of the institution audit clerk who became henceforth a member of the newly organized department of finance, with the title administrative auditor. The Civil Code likewise established a new proce-

² *Session Laws* 1905, p. 62.

ture for making up the biennial budgets, and vested in the finance department power to inquire into the reasonableness of expenditures, and to enforce its views by refusal to approve vouchers presented by the spending departments.

Before examining specifically the legal authority vested in the director of finance, it is important to view the office in the large. The purpose in the minds of those who created the office was to provide machinery through which the governor as the chief executive could exercise an immediate and direct control over the administrative policy, program, and work of substantially the whole government. This purpose in turn was the by-product of the belief that only by such a concentration of power could an adequate degree of unity and coördination in the administrative services be achieved; and the ultimate goal of efficiency was conceived in part as a function of unity and coördination of each division with the others. This purpose was sought not only through the establishment of far-reaching financial control but equally by linking up over a hundred scattered authorities into eight great departments and the department of finance. Whether this theory was sound and well-conceived, or whether on the other hand it was pushed beyond the limits which are properly to be fixed in the interest of the very efficiency which was sought is not now in question. For the moment the necessary thing is to acquire a clear-cut picture of the office itself.

The specific powers vested in the department of finance fall naturally into three groups: one intended to enable the department to acquire the necessary information on which it could make intelligent decisions; one intended to strengthen the budget-making process; and one intended to vest in the finance department a continuing power of independent review and control of the financial aspects of the process of administration.

The third group of powers is of greatest interest both on account of their intrinsic importance, and their novelty in American fiscal practice. These powers are intended to vest a right of review of administrative decisions involving the expenditure of money in the hands of the finance department. The specific clauses in question vest power: (1) to keep summary and

controlling accounts; (2) to examine and approve or disapprove vouchers, bills, and claims of the several departments; (3) in settling the accounts, to inquire into and make an inspection of articles and materials furnished or work and labor performed, for the purpose of ascertaining that the prices, quality, and amount of such articles or labor are fair, just and reasonable, and to disallow any excess. In addition it may be noted that each department must prepare and submit to the finance department, before its appropriation becomes available for expenditure, an estimate of the amount required for each activity to be carried on. The approval of the finance department is not specifically required for the proposed allocation of funds, but its authority to disapprove vouchers gives it a means of ensuring that its wishes in the distribution be given consideration.³

It does not require deep study to grasp the far-reaching authority vested in the department of finance by these statutory provisions. The powers of the department go far beyond an audit to raise the question of fairness, justice and reasonableness of the financial side of administration; and it is obviously difficult to separate questions of this sort from questions of departmental policy and internal departmental operation. A fair reading of these clauses would seem to indicate that the intent was to establish a continuous review of the whole administrative process in the interest of efficiency. The director of finance, therefore, becomes something more than a finance officer, he occupies in the law of Illinois a position analogous to that held in the British system by the Treasury.⁴

It must always be remembered that the director of finance is an appointee of the governor and like other directors may be removed by the governor at will. The broad decisions therefore are those of the chief executive; the control of the spending departments is control by the governor; the practical limits drawn either against the spending departments or the finance department are the limits set by the governor; the enforcement and execution of these limits is the duty of the financial department.

³ *Session Laws* 1917, p. 2.

⁴ See Willoughby, Willoughby, and Lindsay, *Financial Administration of Great Britain*, ch. 8.

Summarizing these legal provisions from the point of view of the bureau engaged in research,⁵ we find that it is subject to the following elements of central financial control.

1. The forms of accounts, records, and reports are fixed by the department of finance.

2. The bureau estimates for appropriation are subject to alteration or reduction before approval by the director of finance.

3. The appropriations to the bureau are available only after it has prepared and submitted to the director of finance a plan of expenditure.

4. All vouchers showing expenditure are submitted to the director of finance for review and approval, and are subject to disapproval (1) on ground of illegality or inaccuracy, (2) on question of their fairness, justice, and reasonableness.

5. All purchases, except emergency purchases, are made on requisition by the department of public works and buildings.

6. All printing is supplied for the scientific bureaus by the department of public works and buildings.

7. The legality and accuracy of all expenditures is determined by the auditor and by the director of finance.

8. Travel without the state requires the approval of the governor.

The general pattern of the system of control appears in the foregoing paragraphs. It is obvious that the freedom and independence of the units of state administration must be to a certain extent impaired. The degree of curtailment depends on the special arrangements in each state and on the character of the men who operate the system. It is perfectly clear that a mere reading of the statute does not suffice to obtain an accurate picture of the real situation, but it is equally clear in broad generalization that a scientific agency formerly vested with power to purchase its own supplies, to contract for its own printing, to send its investigators on such journeys as seemed to it desirable, that approved its own vouchers, prepared its own budget, and appeared directly before the legislature, by whom it was granted

⁵ But not the University of Illinois, which is substantially free from these elements of control.

a lump-sum appropriation, cannot enjoy the freedom implied in these statements under a system of central financial control.

The important question, however, and the one to which an answer is sought in these pages, is, has this loss of freedom been a detriment to the prosecution of scientific research in state government; and, if so, to what extent and how can the loss resulting to the state therefrom be avoided? From one point of view it may seem that to admit the loss of freedom gives at once the answer to the question. Consultation with many scientists engaged in state work, however, does not seem to confirm this conclusion, for on the whole the testimony appears to support the view that, however great may be the potential danger involved, there has been in most states very little ground for complaint up to the present.

A convenient method of approaching the potential and actual disadvantages of central financial control will be to examine in turn charges which from time to time have been made. It has thus been asserted that a highly-organized system of government requires an excessive amount of red tape, the number of forms and reports to be made unduly increases, and the energy of the managing officers is drained off in the mere operation of the machine rather than in the prosecution of scientific work. There can be no doubt that the amount of office work increases directly in proportion to the amount of central control, and that the cost of office work is somewhat increased. The real question here is, however, do the ultimate results justify the additional work. The writer holds the belief that they do, from the point of view of the state, in making intelligible the financial results of its operation and thus enabling an intelligent decision on future policy, and equally from the point of view of the scientific division, in charting its financial history from one fiscal period to another and from month to month within each fiscal period.

There is very general complaint about central control of printing and binding. The quality of printing and binding is thought to be unsatisfactory and there is said to be unnecessary delay in handling printing orders. The writer has reached the conclusion that there is cause for complaint in the matter of

delay involved, but the amount of delay has not appeared serious in any case. Where, however, administrative officials determine whether or not a specific scientific contribution shall be published, within an available appropriation, the writer believes that there is proper ground for complaint on the part of scientists. The exercise of this power goes to the heart of scientific activity, and involves a question which should be reserved to the scientist for determination.

There is less complaint about central purchasing than might have been anticipated. This is due in part to the fact that some scientific agencies have been allowed to purchase from university stores and in part to a general willingness to allow scientific divisions practically to purchase for themselves scientific apparatus and in some cases scientific supplies. The writer found no evidence of any restriction of scientific work on account of an unfriendly purchasing policy.

The contingent fund of the scientific division has tended to disappear with the establishment of a central financial agency, and it might be supposed that the discretion of the scientific division would thereby be diminished. The head of the division, it is true, no longer can determine whether an emergency exists in the work for which he is responsible, but must accept the decision of another official. It must be remembered, however, that a fair construction of the use of contingency funds would make them seldom available for the prosecution of research, since they are designed primarily to care for unforeseen emergencies in the administration of state policies, as for example, an epidemic, or an outbreak of some plant disease. For such purposes the central financial agency is, of course, prepared to make the necessary additional grants.

Coincident with the change in policy in the matter of contingent funds is a tendency to itemize more completely the appropriations of scientific divisions. The writer has formed the opinion that the process of itemization in some states, notably Ohio, has gone too far with regard to the scientific divisions. The budget is properly required to be itemized, in order that the legislature may know for what purposes it is appropriating. A highly-

itemized appropriation, however, destroys the flexibility of the financial policy of a department and unnecessarily and unwisely reduces the discretion of the chief of the scientific division. An audit will always prevent illegal expenditures and any tendency to use money in ways not approved by the legislature can be cured, if necessary, by itemization in later appropriation acts. The writer recommends that the appropriation be not itemized to a degree greater than that of the geological, water, and natural history surveys of Illinois for 1923-25.

The most important charge against the newer systems of financial control remains to be considered. It is said that their legal provisions and their actual operation, as well, remove the determination of matters of departmental policy from the department or division concerned to the department of finance, and that this transfer of power not only destroys the responsibility and initiative of the several departments, but vests power of decision in the hands of persons not fitted by training or experience to exercise it wisely. These decisions may turn on recommendations for appropriation to the legislature, or on approval of quarterly plans for expenditure, or on approval of vouchers and claims for expense incurred or projected. In the case of Illinois and Ohio, and to a considerable degree in Massachusetts, there is no doubt that the law contemplates that on a question of the validity or expediency of an expenditure the decision of the department of finance, if supported by the governor, is conclusive. In Wisconsin no such power exists. Waiving for the moment the use which in fact is made of this power, the writer wishes to reaffirm the conclusion which he expressed in a former study of the Illinois system.⁶

"Insofar as the Department of Finance undertakes to determine the question as to whether a given piece of research should be undertaken, or whether it is being properly conducted, or to grant or refuse money for equipment thought necessary by the research workers within the limits of the appropriation, or to approve or disapprove the number and character of scientific assistants within the terms of the appropriation, the useful

⁶ See *Bulletin of the National Research Council*, No. 29, Volume V, pt. 4.

features of central control are clearly overbalanced by an excessive interference."

The relationship here involved is an extremely delicate adjustment which can successfully be made only by a loyal coöperation on each side and a broad understanding of the responsibilities involved in each case. The adjustment is made immeasurably more difficult by the rapid changes which in many cases characterize the offices of finance directors and budget superintendents and governors. Permanence and stability are almost the *sine qua non* of success in a matter of this sort. The writer feels assured that, taking the state government as a whole, substantial sums of money are saved and greater service rendered by the operation of the system of control defined in the preceding pages. He feels equally assured that the conduct of scientific investigation will reap its full fruit only if unhampered by an unwise interference on the part of the central control agency.

This seems to result in an insoluble pair of opposites. Practice, however, sometimes deals quickly with logical difficulties, and in this case a working arrangement seems to be developing which may easily become a tradition, by virtue of which the research and scientific divisions retain all necessary freedom in their work. The writer has been constantly impressed with the contrast between the legal statement and the actual operation of the system of financial control here under discussion. In law formidable and drastic, concentrating fiscal power in a way which might seem to promise the annihilation of all independence and initiative, these systems reveal themselves in practice largely as the restatement of methods which for the most part have long been accepted. It has been said that every institution is the shadow of a man. This is emphatically true with the institution of control which has been described in the preceding pages. The writer has come in touch with many scientists in several states, and has learned of many disagreements and many difficulties, but he has found few cases in which the prosecution of research was made more difficult in any fundamental way by the operation of central financial control. Some such cases, however, exist. Indeed he has frequently asked himself the question

whether the promise of efficient administration contained in the law of central control was not likely to vanish in its practical operation.

One other allegation may be referred to briefly. It is sometimes said that a highly unified administrative system subject to the power of financial control herein described lends itself to political manipulation with an ease and on a scale greater than in a system of independent agencies not subject to central financial control. There is an undoubted element of truth in this charge and in any general evaluation of the effect of the newer system it would merit considerable attention. While some cases have been brought to the attention of the writer in which the fear of political influence was evident, it must be said that very few cases of political interference in the conduct of scientific investigation have been revealed. The scientific divisions have so far escaped, in part because they are relatively small and have little to offer in the way of patronage, in part because they are in many cases affiliated with or contiguous to the state university, in part because their functions are distinctly nonpolitical, and in part because politicians feel that the people will not tolerate interference in such cases. Partisanship has been rife in Illinois since 1921, but the three surveys, the Institute for Juvenile Research, and the diagnostic laboratories have been untouched. It appears, therefore, that while scientific investigation cannot expect to make forward strides under adverse political conditions, it can be reasonably sure of freedom from political interference.

It may conduce to clarity if a statement of the limits of central financial control be hazarded. In the judgment of the writer, no detriment to scientific research in the various divisions of state government is to be anticipated from:

1. The audit of expenditures to ensure their conformity with the appropriation act.
2. The establishment of a uniform accounting system for all departments.
3. The preparation of detailed estimates of expenditure for ensuing fiscal periods.
4. The review and revision of such estimates by a finance

official, after full hearing, and with opportunity for a further hearing before the house and senate appropriations committee.

5. The purchase of supplies and materials by a central purchasing officer, with the understanding that the specifications for scientific equipment and supplies are to be written by the scientific division.

6. The handling of contracts for printing and binding, with the understanding that the judgment of the scientific division as to what should be printed (up to the limit of the appropriation) is conclusive.

On the other hand it seems to the writer that the success of scientific research in state governments would be jeopardized:

1. Whenever the decision of a scientific agency to prosecute a scientific investigation, authorized by an appropriation, is overruled by the judgment of a finance office.

2. Whenever the judgment of a scientific agency that a proposed purchase for a scientific purpose, within an appropriation, is overruled by the judgment of a purchasing officer.

3. Whenever the judgment of a scientific agency that the publication of certain results, within an appropriation is expedient, is overruled by the judgment of an editorial board.

It should be further stated that the lodgment of such authority as is recognized in the first of the two preceding statements imposes a solemn obligation upon financial officials to use their authority with vision and understanding. A short-sighted and ill-spirited use of even moderate authority may create an intolerable situation; and if experience demonstrates that the state cannot secure men of vision and sympathy as well as men of firmness and sound judgment to sit in these key positions, a complete reconsideration of the system of control will be necessary. Experience to the present time, however, so far as the writer can judge, indicates that scientific research is not likely to suffer from positive ill-will on the one hand nor from petty attacks on the other.

CONSTITUTIONAL LAW IN 1923-1924

THE CONSTITUTIONAL DECISIONS OF THE SUPREME COURT OF THE UNITED STATES IN THE OCTOBER TERM, 1923

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A. QUESTIONS OF NATIONAL POWER

I. REGULATION OF COMMERCE

No one who has followed the steady expansion of federal authority over the business of interstate carriers sanctioned by the Supreme Court in the Shreveport Case,¹ *Illinois Central R. Co. v. Public Utilities Commission*,² and *Railroad Commission v. Chicago, B. & Q. R. Co.*,³ will view with surprise the unanimous decision of that tribunal in *Dayton-Goose Creek R. Co. v. United States*,⁴ sustaining the validity of the "recapture" clause of the Transportation Act of 1920.⁵ This clause provided in substance that since it is impossible to establish uniform rates upon competitive traffic which will adequately sustain all the carriers needed to do the business, without giving some of them a net income in excess of a fair return, any carrier receiving such excess shall place one-half of it in a reserve fund to be maintained by the carrier for certain specified purposes, and shall pay the other half into a general railroad revolving fund to be maintained in the interstate commerce commission. This fund is to be used by the commission to make loans to carriers to meet expenditures for capital account, and so forth. In short, as Chief Justice Taft aptly summarized it in his opinion, "by the recapture clauses, Congress is enabled to maintain uniform rates for all shippers and yet keep the net

¹ *Houston, E. & W. T. R. Co. v. United States*, 234 U. S. 342.

² 245 U. S. 493.

³ 257 U. S. 563. See comment in this *Review*, vol. 16, p. 618.

⁴ 263 U. S. 456. Nineteen railroads besides the plaintiff in the present case filed briefs attacking the constitutionality of the statute.

⁵ Act of Feb. 28, 1920, Chap. 91, Sec. 422, 41 Stat. at L. 456, 489-491.

returns of railways, whether strong or weak, to the varying percentages which are fair respectively for them.”⁶

The court pointed out that, from the standpoint of the shipper, rates which are needed to enable all the roads, necessary to handle the traffic of a rate territory, to make a fair return on their property are reasonable. It also declared that the carrier, having engaged in a business devoted to the public interest, has no constitutional right to more than a fair net operating income upon the value of its property devoted to transportation. The carrier never acquires title to any earnings in excess of such fair return, but merely receives them as a trustee, so that the recapture of this excess by the government involves neither an appropriation of property without compensation nor a deprivation of it without due process of law. The objection that such excess should go to the shipper rather than to the government is met by pointing out that the shipper has paid no more than a reasonable rate, and that he is the ultimate beneficiary of any system which helps to strengthen the weaker roads and makes possible a lower uniform rate.

Finally, in answer to the objection that the recapture clause reduced the net income from intrastate rates and thereby encroached on the reserved power of the states in violation of the Tenth Amendment, Chief Justice Taft said: “In solving the problem of maintaining the efficiency of an interstate commerce railway system which serves both the states and nation, Congress is dealing with a unit in which state and interstate operations are often inextricably commingled. When the adequate maintenance of interstate commerce involves and makes necessary on this account the incidental and partial control of intrastate commerce, the power of Congress to exercise such control has been clearly established.” The necessities of administration render necessary the incidental control by Congress of that part of the excess earnings which may come from intrastate rates.

The sensitiveness of the court to any form of rate discrimination was evidenced in *United States v. Illinois Central R. Co.*⁷ The designation by the Illinois Central Railroad Company of a blanket territory, from all points within which the same rates were charged to certain northern points, was held to involve undue discrimination against a shipper located on an independent connecting line whose total joint rate over the two roads was higher than the rate charged by the

⁶ At page 480.

⁷ 263 U. S. 515.

Illinois Central for greater distances on its own lines. The court met the contention that a nondiscriminatory joint rate would be confiscatory by pointing out that the competing rates might be increased in order to prevent discrimination.⁸

II. EIGHTEENTH AMENDMENT

It has been clear from the outset that the scope of congressional power under the Eighteenth Amendment is not likely to be pared down by overstrict judicial construction.⁹ This is evidenced anew in the case of *Everard's Breweries v. Day*¹⁰ which holds valid the Supplemental Prohibition Act of 1921¹¹ providing that only spirituous and vinous liquor may be prescribed for medicinal purposes, thereby forbidding the use for such purposes of malt liquor. The court, speaking through Justice Sanford, declared that such a measure was reasonable as a means of exercising the power granted by the Eighteenth Amendment. It repudiated the idea that it involved an unconstitutional encroachment on the reserved powers of the states, since the act fell squarely within the sphere of delegated congressional authority.¹² While the medicinal value of beer or other malt liquors is a debatable question, there is sufficient ground for believing the prohibition of the prescription of such liquor to be necessary to the adequate suppression of traffic in intoxicating liquor to warrant the discrimination against malt liquor and in favor of spirituous and vinous liquors. Such discrimination "is not plainly unreasonable or without a substantial justification."

⁸ *United States v. American Railway Express Co.*, 265 U. S. 425, held that the express company is not deprived of its property without due process of law by giving the shipper of express the right to give routing instructions where there is competitive express service, since it has no property right in the transportation of traffic delivered by it to destination. See also *United States v. New River Co.*, 265 U. S. 533, holding valid a rule of the interstate commerce commission limiting the total orders for cars of the owner of a mine served by two carriers to the gross daily rating of the needs of the mine.

⁹ See the earlier cases commented on in this *Review*, vol. 16, p. 629, and vol. 18, p. 60.

¹⁰ 265 U. S. 545.

¹¹ Act of Nov. 23, 1921, Chap. 134, 42 Stat. at L. 222.

¹² "And if the act is within the power confided to Congress, the Tenth Amendment, by its very terms, has no application, since it only reserves to the states 'powers not delegated to the United States by the Constitution.'"

III. THE FEDERAL BILL OF RIGHTS

1. *Unreasonable Searches and Seizures*

In August, 1921, the Senate directed the federal trade commission to investigate the tobacco industry with reference to domestic and export prices.¹³ The commission, taking an extremely liberal view of the authority thus conferred, and apparently anxious to accomplish results with a minimum expenditure of time and effort, ordered the American Tobacco Company, and others, to submit for inspection all of their accounts, books, records, documents, memoranda, contracts, papers and correspondence. In *Federal Trade Commission v. American Tobacco Company*¹⁴ the court held that such a blanket demand exceeded any powers which the commission had received from Congress and constituted an unreasonable search and seizure within the meaning of the Fourth Amendment. With his customary directness and felicity of speech, Justice Holmes declared: "The mere facts of carrying on a commerce not confined within state lines, and of being organized as a corporation, do not make men's affairs public, as those of a railroad now may be. Anyone who respects the spirit as well as the letter of the Fourth Amendment would be loath to believe that Congress intended to authorize one of its subordinate agencies to sweep all our traditions into the fire and to direct fishing expeditions into private papers on the possibility that they may disclose evidence of crime. It is contrary to the first principles of justice to allow a search through all the respondent's records, relevant or irrelevant, in the hope that something will turn up." He then went on to point out that the commission's authority extended only to the demanding of documentary evidence, not documents in general, and that some grounds must be shown for supposing that the documents called for contained evidence relevant to the inquiry on hand.¹⁵

¹³ August 9, 1921. The resolution read: "The Federal Trade Commission be and is hereby directed to investigate the tobacco situation in the United States as to the domestic and export trade, with particular reference to the market price to producers for tobacco and the market price for manufactured tobacco and the price of leaf tobacco exported, and report to the Senate as soon as possible the results of such investigation." Quoted in 283 Fed. 999, 1003.

¹⁴ 264 U. S. 298.

¹⁵ In *Hester v. U. S.*, 265 U. S. 57, a man was chased across a field by a prohibition agent and dropped and broke a jug. The officers analysed the contents of the jug and used the evidence against him. It is held that this does not compel him to give evidence against himself, nor does it invade the constitutional guaranty against unreasonable searches and seizures.

2. *Due Process of Law: The District of Columbia Emergency Rent Law*

It will be recalled that as a result of the extraordinary conditions caused by the war Congress passed a statute in 1919¹⁶ preventing the charging of unreasonable rents in the District of Columbia. As an emergency measure the act was limited in duration to two years. The validity of this law was sustained by a five-to-four decision in the case of *Block v. Hirsh*,¹⁷ with Justice Holmes speaking for the majority and Justice McKenna writing an almost acrimonious dissenting opinion for the minority. By two successive acts Congress extended the operation of the law to May 22, 1924.¹⁸ The plaintiffs in the present action, *Chastleton Corporation v. Sinclair*,¹⁹ allege that the emergency which originally justified the law no longer exists, and that they are deprived of their property without due process of law. The court, speaking again through Justice Holmes, holds this contention presumptively true and remands the case back to the lower court for appropriate action. It is pointed out that while the legislative declaration that a justifying emergency exists as a present fact is entitled to very great respect "so far as this declaration looks to the future, it can be no more than prophecy, and is liable to be controlled by events." Also, "a law depending upon the existence of an emergency or other certain state of facts to uphold it may cease to operate if the emergency ceases or the facts change, even though valid when passed." Turning to the question whether the emergency actually does exist the court finds that it is a matter of public knowledge that living conditions in Washington have considerably improved. "If about all that remains of war conditions is the increased cost of living, that is not, in itself, a justification of the act," and, "if the question were only whether the statute is in force today, upon the facts that we judicially know, we should be compelled to say that the law has ceased to operate." However, the existing conditions ought to be "accurately ascertained and carefully weighed" and this can better be done by the supreme court of the District of Columbia, which is instructed to preserve the evidence for review by the United States Supreme Court if necessary.

It is interesting to note that the court does not attempt to decide

¹⁶ Act of Oct. 22, 1919, Chap. 80, 41 Stat. at L. 297.

¹⁷ 256 U. S. 135. See comments in this *Review*, vol. 16, p. 33.

¹⁸ Act of Aug. 24, 1921, Chap. 91, 42 Stat. at L. 200; Act of May 22, 1922, Chap. 197, 42 Stat. at L. 543.

¹⁹ 264 U. S. 543.

for itself on the basis of its off-hand judicial knowledge the existence or nonexistence of the facts upon which the validity of the legislative act must depend. In spite of a prima facie indication that the justifying facts do not exist and that the statute is void, the court sends the case back to the lower court for further investigation.²⁰

3. *Due Process of Law and the Deportation of Aliens*

By an act of 1920²¹ Congress authorized the deportation of certain classes of aliens, including those who had been convicted under various penal acts passed during the war, provided the secretary of labor, after a hearing, found them to be "undesirable residents." In *Mahler v. Eby*²² the validity of this statute was attacked. It was urged that it was ex post facto since it permitted deportation for crimes previously committed; that it delegated legislative power to an executive officer; and that the words "undesirable resident" established a criterion so vague and uncertain as to leave the liberty of an alien to the whim and caprice of the executive officer, thereby working a denial of due process of law. These various contentions were overruled by the court, speaking through Chief Justice Taft. However the alien may feel about it, the law regards deportation not as a punishment but as an exercise of a sovereign power necessary to the safety of the country. The act, therefore, is not ex post facto, both upon the theory of *Calder v. Bull*²³ and of *Hawker v. New York*.²⁴ The court finds no delegation of legislative power to an executive officer, and, after alluding to previous legislation dealing with immigrants, concludes that "our history has created a common understanding of the words "undesirable residents" which gives them the quality of a recognized standard, so that the discretion exercised by the secretary of labor does not become so vague and capricious as to fail of due process."²⁵ After thus sustaining

²⁰ Justice Brandeis wrote a concurring opinion in which he held that the procedural requirements of the statute had not been complied with so that the plaintiffs were not bound by the order of the rent commission issued against them. This being the case the question of the constitutionality of the act was not raised and should not have been considered by the court.

²¹ Act of May 10, 1920, Chap. 174, 41 Stat. at L. 593.

²² 264 U. S. 32.

²³ 3 Dall. 386.

²⁴ 170 U. S. 189.

²⁵ The court found, however, that the warrant for deportation was defective in not reciting that the secretary of labor had found the petitioner an "undesirable resident." He was ordered to be retained in custody pending the correction of this defect.

the validity of the deportation act the court found defective the warrant under which the petitioner in this case was held.

In *United States ex rel Tisi v. Tod*²⁶ it was held that an alien who was ordered deported on the ground that he knowingly had seditious literature in his possession was not deprived of liberty without due process of law because the secretary of labor may have made a wrong decision as to his guilt, or may have drawn incorrect inferences from the evidence. Knowledge that the literature was seditious was held not to be a jurisdictional fact which must be affirmatively established in order to validate the order of deportation.²⁷

4. *Government of Territories*

In 1919 the territorial legislature of Alaska levied an annual poll tax of five dollars on all males, the proceeds to be used for school purposes, and an annual license fee of five dollars upon each nonresident fisherman in the territory. In *Sven Haavik v. Alaska Packers' Association*²⁸ these taxes were held valid in the case of a resident of California who was employed as a fisherman in Alaska during four months of the year. There is no deprivation of property without due process of law in compelling him to contribute to the support of the territorial government. The license tax does not impair the privileges and immunities of citizens in the several states (Art. IV. Sec. 2, U. S. Constitution) since Alaska is not a state, nor is the discrimination against nonresidents arbitrary and unreasonable.

5. *Judicial Power*

The case of *North Dakota v. Minnesota*²⁹ arose out of the overflow of certain North Dakota lands alleged to have been caused by the action of Minnesota in straightening and thereby increasing the speed and volume of certain rivers. The plaintiff state sought a permanent injunction against the continuance of the harmful conditions and also claimed money damages for the injury done to state property and to the lands of the inhabitants of the flooded area. The claim for damages to private property owners was dismissed for want of juris-

²⁶ 264 U. S. 131.

²⁷ *United States ex rel. Bilokumsky v. Tod*, 263 U. S. 149, deals in some detail with the regularity of the hearing allowed an alien in deportation proceedings.

²⁸ 263 U. S. 510.

²⁹ 263 U. S. 365.

diction as being within the prohibition of the Eleventh Amendment. The court noted the fact that the complaining owners had contributed to a fund for the purpose of prosecuting the suit and concludes, "It is inconceivable that North Dakota is prosecuting this damage feature of its suit without intending to pay over what it thus recovers to those entitled." The case falls clearly within the rule of *New Hampshire v. Louisiana*.³⁰ After a careful examination of a huge mass of expert testimony the court further concludes that the floods complained of were due to natural causes rather than to any action upon the part of Minnesota and accordingly refuses the injunction asked.³¹

In *Craig v. Hecht*,³² Craig, the comptroller of New York City, had been sentenced to jail for contempt of court for publishing a letter assailing certain actions of a federal district judge in a receivership proceeding then pending. He sued out a writ of habeas corpus before a federal circuit judge who discharged him on the ground that the district judge had exceeded his authority in issuing the writ of contempt. An appeal was taken to the circuit court of appeals which reversed the circuit judge for want of jurisdiction to issue the habeas corpus. This decision is affirmed by the Supreme Court in the present case, the court taking the position that Craig could not use the habeas corpus proceeding as a substitute for a writ of error and that since he had elected not to resort to the ordinary process of appeal on the merits of the district judge's ruling he had voluntarily placed himself beyond the power of the Supreme Court to afford him relief. In a dissenting opinion concurred in by Justice Brandeis, Justice Holmes considers the merits of the original contempt proceeding and holds that Craig should have been discharged.

In two cases the relation of the states to the maritime jurisdiction of the federal courts was involved. After the decision in *Knickerbocker Ice Co. v. Stewart*,³³ holding that Congress could not validly allow state workmen's compensation laws to apply to injuries within the admiralty and maritime jurisdiction of the federal courts, Congress sought again to extend the state workmen's compensation acts to maritime injuries except in the cases of "masters and members of the crew."³⁴ In *Washington v. Dawson and Co.*³⁵ the court held this new

³⁰ 108 U. S. 76.

³¹ The court does not deal separately with the plea for \$5000 damages for injuries resulting to state property.

³² 263 U. S. 255.

³³ 253 U. S. 149. See comment in this *Review*, vol. 15, p. 55.

³⁴ Act of June 10, 1922, Chap. 216, 42 Stat. at L. 634.

³⁵ 264 U. S. 219.

provision to fall within the prohibition of the earlier case so that one engaged in stevedoring, whose employees work only on board ships in the navigable waters of Puget Sound, could not be compelled to contribute to a state accident compensation fund. In Red Cross Line v. Atlantic Fruit Co.,³⁶ however, it was held that the New York Arbitration Act,³⁷ allowing specific performance of a promise made by contracting parties to arbitrate disputes, was applicable to a maritime contract since it did not alter the substantive maritime law but merely affected the remedies available.³⁸

A somewhat different question regarding maritime jurisdiction was raised in Panama R. R. Co. v. Johnson.³⁹ Here it was held that the provision of the Seaman's Act of 1915⁴⁰ giving a seaman injured in the course of his employment a right to trial by jury did not violate the constitutional provision extending federal judicial power to all cases of admiralty and maritime jurisdiction. It was urged that the act took from the admiralty side of the court, in which jury trial does not prevail, jurisdiction which properly belonged there. The court held, however, that the admiralty side of the court had not lost jurisdiction by the act although the common law side had gained. The seaman has an option as to which side he will elect to hear his case. Such a provision is within the power of Congress to modify the rules of maritime law. The fact that the seaman had this right of election while the master did not was held not an unreasonable discrimination under the Fifth Amendment.

6. Statutory Construction

In First National Bank in St. Louis v. Missouri⁴¹ the Supreme Court held that under the existing statutes national banks could not lawfully maintain branch banks. A state statute forbidding such branch banks does not involve an undue interference with a federal agency or instrumentality nor obstruct the efficient performance of its

³⁶ 264 U. S. 109.

³⁷ April 19, 1920, Chap. 275, amended Mar. 1, 1921, Chap. 14.

³⁸ Justice McReynolds, who wrote the majority opinions in Knickerbocker Ice Co. v. Stewart, and Washington v. Dawson & Co., dissented in this case, holding the New York statute inapplicable to a maritime contract.

³⁹ 264 U. S. 375.

⁴⁰ Act of Mar. 4, 1915, Chap. 153, 38 Stat. at L. 1185.

⁴¹ 263 U. S. 640.

functions. The case settles a matter long under dispute and confirms the opinion of Mr. Wickersham as Attorney-General, given in 1911.⁴²

B. QUESTIONS OF STATE POWER

I. THE FOURTEENTH AMENDMENT

1. *The Alien Land Laws*

While it has been established for many years that a state, in the absence of any treaty provision to the contrary, may constitutionally deny to aliens the right to own land within its borders,⁴³ the question whether a state could validly deny the right of land ownership to certain races or to certain classes of aliens while granting it to others was not raised until the enactment by the Pacific Coast states of laws discriminating in this way against the Chinese and Japanese.⁴⁴ These laws have now been held by the Supreme Court to be valid.

The case of *Terrace v. Thompson*⁴⁵ involved the Anti-alien Land Law of the State of Washington, a law which forbade all aliens except those who had declared their intention to become citizens of the United States to own or acquire any interest in land within the state under penalty of forfeiture of the land to the state and the criminal punishment of those conveying the title or interest in violation of the law. Terrace sought an injunction to restrain the attorney-general from enforcing the law against him so as to prevent the leasing of his land for agricultural purposes to a Japanese farmer.⁴⁶ The major portion of the opinion of Justice Butler deals with the propriety of the classification which lies at the heart of the statute, since an alien is as much entitled to the guaranties of due process and equal protection of the law under the Fourteenth Amendment as is a citizen. Since the denial of the

⁴² May 11, 1911, 29 Ops. Atty. Gen. 81. Justice Van Devanter dissented vigorously on the ground that national banks, being created by the United States for public purposes essentially national in scope, are wholly immune from any state laws purporting to control their powers or functions.

⁴³ *Hauenstein v. Lynham*, 100 U. S. 483, *Blythe v. Hinckley*, 180 U. S. 333.

⁴⁴ These statutes were so worded as not to conflict with any rights guaranteed to aliens by treaty.

⁴⁵ 263 U. S. 197.

⁴⁶ The court discusses the propriety of this method of testing the constitutionality of the act and concludes that it is permissible since the penalty for violation of the act is so severe as to make it virtually impossible to raise the constitutional question by violating the statute and subsequently pleading its invalidity as a defense.

right of land ownership to all aliens alike is not a denial of due process of law, the only question remaining is whether the state may properly deny the privilege to aliens ineligible to citizenship under the naturalization laws and to those eligible aliens who refrain from becoming naturalized. In singling out ineligible aliens for discriminatory treatment the state is merely adopting for its own purposes a classification already made by Congress. While it is true that Congress could withhold the right of naturalization for any reason or for no reason at all, "it is not to be supposed that its acts defining eligibility are arbitrary or unsupported by reasonable considerations of public policy. The State may properly assume that the considerations upon which Congress made such classification are substantial and reasonable." Furthermore, if ineligible aliens may own land it is not impossible that "every foot of land within the state might pass to the ownership or possession of non-citizens." The court succinctly observes that "reasons supporting discrimination against aliens who may, but who will not, naturalize, are obvious." It distinguishes the present case from that of *Traux v. Raich*,⁴⁷ which held that the Fourteenth Amendment forbade discrimination against aliens with reference to employment in the common occupations of the community, by declaring that there is a difference between earning a living in an ordinary occupation and owning or controlling agricultural land, and that "the quality and allegiance of those who own, occupy and use the farm lands within its borders are matters of highest importance, and affect the safety and power of the state itself."

An examination of the terms of our treaty of 1911 with Japan⁴⁸ convinces the court that the right to own or control agricultural land is not within the rights guaranteed thereby to Japanese subjects and that the treaty contains evidence of an intention to exclude that right. The state statute is not therefore in violation of the treaty.⁴⁹

The doctrine of *Terrace v. Thompson* was applied in three similar cases arising under the Anti-alien Land Laws of California. In *Porterfield v. Webb*⁵⁰ it was held that the failure of the California statute to forbid land ownership or control by eligible aliens, who have not taken out their first papers, does not arbitrarily discriminate against

⁴⁷ 239 U. S. 33.

⁴⁸ 37 Stat. at L. 1504, Feb. 21, 1911.

⁴⁹ Justices McReynolds and Brandeis took the view that no justiciable question is involved in the case and that it should have been dismissed on that ground.

⁵⁰ 263 U. S. 225.

ineligible aliens. In *Webb v. O'Brien*⁵¹ the defendant had entered into a cropping contract with a Japanese farmer whereby the latter was to receive half the crop but acquired no title or interest in the land. The court held such a contract to be more than a mere contract of employment. If executed it would give the alien a right to use and have a share in the benefit of the land for agricultural purposes and is virtually tantamount to a lease. It falls accordingly within the prohibitions of the statute. *Frick v. Webb*⁵² holds that no violation of the Fourteenth Amendment or of treaty rights is involved in the provision of the California act forbidding aliens ineligible to citizenship to acquire stock in a corporation holding land for agricultural purposes, since such a provision is a reasonable method of giving effect to the main purpose of the statute.

In this connection may be noted the case of *Asakura v. Seattle*,⁵³ invalidating, as in violation of Japanese treaty rights, an ordinance making it unlawful for any person to engage in business as a pawnbroker, unless licensed, and providing that no license should be granted to any alien. A pawnbroker is held to be engaged in "trade" within the meaning of the treaty, which must be liberally construed.

2. *The Police Power*

In the group of cases involving the application of the due process clause to the police power of the state two or three stand out as throwing additional light upon the mental processes of the Supreme Court in dealing with the constitutionality of social and economic legislation.

In *Burns Baking Co. v. Bryan*⁵⁴ the court invalidated a Nebraska statute establishing maximum weights for loaves of bread and, after allowing a certain tolerance, providing penalties for selling or making for sale bread in other weights. Speaking through Justice Butler the court turns to the question "whether the challenged provision has reasonable relation to the protection of purchasers of bread against fraud by short weights and really tends to accomplish the purpose for which it was enacted." After considering expert testimony on both sides it reaches the conclusions that compliance with the law would impose on bakers and sellers of bread restrictions which are unduly burdensome and constitute genuine hardships, and that the establish-

⁵¹ 263 U. S. 313.

⁵² 263 U. S. 326.

⁵³ 265 U. S. 332.

⁵⁴ 264 U. S. 504.

ment of the maximum and minimum weights is not necessary to protect consumers against fraud and is not reasonably calculated to accomplish that purpose.

The willingness of the court to form its own opinion with respect to the existence or nonexistence of the facts upon which the validity of the act must in the last analysis depend, and to adhere to that opinion in the face of the conflicting testimony of experts and the contrary opinion of the legislature is reminiscent of the majority opinion in *Lochner v. New York*⁵⁵ and the recent District of Columbia Minimum Wage Case.⁵⁶ It drew from Justice Brandeis, with Justice Holmes concurring, a vigorous dissent in which, after setting forth at length the evidence pointing to the existence of a most respectable body of opinion supporting the reasonable character of the statute under consideration, he gives the following pungent statement of his view of the court's proper function in dealing with this type of case: "Put at its highest, our function is to determine, in the light of all facts which may enrich our knowledge and enlarge our understanding, whether the measure, enacted in the exercise of an unquestioned police power, and of a character inherently unobjectionable, transcends the bounds of reason. That is, whether the provision, as applied, is so clearly arbitrary or capricious that legislators, acting reasonably, could not have believed it necessary or appropriate for the public welfare. To decide, as a fact, that the prohibition of excess weights 'is not necessary for the protection of the purchasers against imposition and fraud by short weights'; that it 'is not calculated to effectuate that purpose;' and that it 'subjects bakers and sellers of bread,' to heavy burdens,—is, in my opinion, an exercise of the powers of a superlegislature,—not the performance of the constitutional function of judicial review."

But certainly no one, not even the most progressive reformer, could quarrel with the philosophy of Justice Sutherland's opinion in *Radice v. New York*⁵⁷ upholding the constitutionality of the New York statute prohibiting women's night work. "Where the constitutional validity of a statute," observes the learned justice, "depends upon the existence of facts, courts must be cautious about reaching a conclusion respecting them contrary to that reached by the legislature; and if the question of what the facts establish be a fairly debatable one, it is not permissible for the judge to set up his opinion in respect of it against the

⁵⁵ 198 U. S. 45.

⁵⁶ *Adkins v. Children's Hospital*, 261 U. S. 525.

⁵⁷ 264 U. S. 292.

opinion of the lawmaker." And yet when one remembers that it was Justice Sutherland himself who wrote the opinion invalidating the District of Columbia Minimum Wage Law,⁵⁸ one must conclude that it is vastly easier for a judge to adhere to a liberal view respecting the judicial function in police power cases when he personally agrees with the findings of the legislature than when he does not.

The other cases relating to validity under the Fourteenth Amendment of state police legislation must, for want of space, be merely mentioned. *Sheehan Co. v. Shuler*⁵⁹ sustained the validity of a recent amendment to the New York Workmen's Compensation Act providing that, when an employee dies because of industrial injuries leaving no dependents to receive compensation, the employer shall pay a specified sum into a fund to be used for vocational rehabilitation of employees and the payment of compensation for permanent total disability occurring after permanent partial disability. *Security Savings Bank v. California*⁶⁰ held constitutional a California statute providing that bank deposits unclaimed for twenty years shall be turned over to the state. *Dillingham v. McLaughlin*⁶¹ upheld the validity of a New York statute confining to corporations the business of collecting money in installments from small investors for coöperative, mutual loan, savings, or investment purposes. In *Hixson v. Oakes*⁶² the court sustained the validity of an ordinance of the City of Los Angeles forbidding the filling of any prescription calling for more than eight ounces of alcoholic liquor. This was held to be neither in conflict with the Fourteenth Amendment nor with the Volstead Act. Following its decision in *Wolff Packing Co. v. Court of Industrial Relations*,⁶³ the Supreme Court, in the case of *Dorchy v. Kansas*,⁶⁴ held unconstitutional the system of compulsory arbitration established by the Kansas Court of Industrial Relations Act as applied to coal mines. The act in question contained a stipulation that the invalidity of one part of the act should not be held to vitiate the whole. The court refused to regard the question of the separability of the invalid portion as concluded by this state-

⁵⁸ See above, note 56.

⁵⁹ 265 U. S. 371.

⁶⁰ 263 U. S. 282.

⁶¹ 264 U. S. 370.

⁶² 265 U. S. 254.

⁶³ 262 U. S. 522. See comment in this *Review*, vol. 18, p. 67.

⁶⁴ 264 U. S. 286.

ment,⁶⁵ but, instead of ruling on the point itself, sent the case back to the state court for decision on this point.⁶⁶

3. The Regulation of Public Utilities

Of the cases decided at this term involving the validity of state regulation of public utility rates or service, none seems to establish any definitely new principle. *Railroad Commission of Texas v. Eastern Texas R. Co.*⁶⁷ held that a railroad operating under a term franchise could not, without denial of due process of law, be prevented from abandoning and dismantling its road prior to the expiration of the franchise in case the continued operation of the road resulted in a money loss. The case involved only the question of withdrawal from local business, as the Interstate Commerce Commission had already given permission to withdraw from interstate commerce transportation. In *Packard v. Banton*⁶⁸ it is decided that no denial of due process or equal protection of the law is involved in a New York statute applicable to cities of the first class requiring those engaged in the business of operating motor vehicles for hire, with the exception of omnibuses and street cars, to take out insurance for the protection of passengers against injury or death. "The fact that, because of circumstances peculiar to him, the appellant may be unable to comply with the requirements as to security without assuming a burden greater than that generally borne, or excessive in itself, does not militate against the constitutionality of the statute." In *Pacific Gas and Electric Co. v. San Francisco*⁶⁹ the corporation had introduced new inventions which had rendered obsolete a good deal of its equipment and greatly reduced the cost of producing gas. The court held that the fixing of a rate based on the decreased cost of production without allowing for the

⁶⁵ See *Hill v. Wallace* 259 U. S. 44, as applying the same rule to an act of Congress.

⁶⁶ *Cudahy Packing Co. v. Parramore*, 263 U. S. 418, involved the constitutionality of the application of the Utah Workmen's Compensation Act to industrial accidents occurring under somewhat unusual circumstances. *Jones v. Union Guano Co.*, 264 U. S. 171 upheld the validity of a statutory provision that no action for damages for failure of crops could be brought against a seller of fertilizer until the state chemist had first analysed the fertilizer.

⁶⁷ 264 U. S. 79.

⁶⁸ 264 U. S. 140.

⁶⁹ 265 U. S. 403.

obsolescence of the discarded equipment took property without due process of law.⁷⁰

4. *Due Process of Law in Taxation*

In *Pierce Oil Corporation v. Hopkins*⁷¹ an Arkansas statute is held valid which requires those who sell gasoline to be used on cars on state highways to collect for the state a tax of one cent per gallon. No denial of due process is involved thereby, for a state which under its constitution can regulate the sale of gasoline can impose this incidental burden upon those who sell it. The other cases relating to taxation do not call for comment.⁷²

II. STATE LEGISLATION AFFECTING INTERSTATE COMMERCE

Three cases raised questions of interference by state law with interstate commerce. In the case of *Missouri ex rel. Barrett v. Kansas Natural Gas Co.*⁷³ the public utilities commission of the State of Kansas undertook to fix the rates for transporting natural gas through pipe lines within the state although the pipe lines crossed the state boundaries and carried gas coming from outside as well as from inside the state. This the court held to be a direct burden on interstate commerce and accordingly void. "The transportation, sale and delivery," said Justice Sutherland, "constitute an unbroken chain, fundamentally interstate from beginning to end, and of such continuity as to amount to an established course of business. The paramount interest is not local, but national—admitting of and requiring uniformity of regulation. Such uniformity, even though it be the uniformity of nonaction, may be highly necessary to preserve equality of opportunity and treatment among the various communities and states concerned." In *Texas Transport and Terminal Co. v. New Orleans*⁷⁴ the court, in a much closer decision, invalidated an ordinance of the city of New Orleans imposing a license tax of \$400 upon the business of the plain-

⁷⁰ The validity of certain taxes imposed on public utility corporations is involved in *Puget Sound Power & Light Co. v. King County*, 264 U. S. 22, *Southeastern Express Co., v. Robertson*, 264 U. S. 535, *New York, Phila. & N. Teleg. Co. v. Dolan*, 265 U. S. 96, *Baker v. Druesdow*, 263 U. S. 137.

⁷¹ 264 U. S. 137.

⁷² *Raley & Brothers v. Richardson*, 264 U. S. 157, *Butters v. Oakland*, 263 U. S. 162, *McGregor v. Hogan*, 263 U. S. 234.

⁷³ 265 U. S. 298.

⁷⁴ 264 U. S. 150.

tiff in error as steamship agent for four steamship lines engaged exclusively in interstate and foreign commerce. The court held that the plaintiff's business was so closely connected with the interstate and foreign business of its principals as to be immune from state or municipal taxation. In a dissenting opinion by Justice Brandeis, concurred in by Justice Holmes, it is objected that "the validity of a state tax under the commerce clause does not depend upon its character or classification" but only upon the question whether it imposes a direct burden upon, discriminates against, or obstructs interstate commerce, and that while the tax in question is on an instrumentality of interstate commerce it does not burden or interfere with that commerce itself. *Lacoste v. Department of Conservation*⁷⁵ involved the validity of a Louisiana statute establishing, along with various police regulations, a severance tax upon the skins of all wild fur-bearing animals and alligators. This was held not to be a burden on interstate commerce although it could be shown that all the skins taxed were shipped outside the state. It was also held not a denial of due process or equal protection of the law.

III. FEDERAL SUPREMACY AND STATE TAXATION

Under authority of an act of Congress of 1918⁷⁶ the director of aircraft production organized the United States Spruce Production Corporation as an agency for carrying on the war. Its stock was subscribed by the United States, and all its property was conveyed to it by, or bought with funds from, the United States. All its dividends as well as all its assets upon liquidation accrued to the United States. This corporation is held in *Clallam County v. United States*⁷⁷ to be immune from state taxation under the doctrine of *McCulloch v. Maryland*,⁷⁸ inasmuch as it had no independent or private functions but only those which it performed as a government agency in carrying on the war.

IV. EMINENT DOMAIN—INTERSTATE RELATIONS

In 1837 the State of Georgia began the building of a railroad from Atlanta to Chattanooga. In 1852 it purchased eleven acres on the outskirts of Chattanooga for a railroad yard. While the road has been

⁷⁵ 263 U. S. 545.

⁷⁶ July 9, 1918, Chap. 143, 40 Stat. at L. 845.

⁷⁷ 263 U. S. 341.

⁷⁸ 4 Wheat. 316.

operated since 1870 by a corporation as lessee, the title to all this property still remains in the State of Georgia. The City of Chattanooga now undertakes to acquire by eminent domain for street purposes a portion of the railroad yard. In *State of Georgia v. City of Chattanooga*⁷⁹ the protest of Georgia that the property is already devoted to a public use and that the city has no authority to condemn land which the State of Tennessee has permitted a sister state to acquire is overruled. It is held that the land was acquired by the State of Georgia for private purposes and that no sovereign immunity or privilege attaches to the holding of it. When a state acquires land in another state it holds it subject to the laws of the latter just as a private individual does. The sovereignty of Georgia, in other words, does not extend into Tennessee. The fact that Georgia did not consent to be sued is immaterial since the lower court in Tennessee has jurisdiction in eminent domain proceedings and that jurisdiction does not depend on the consent or suability of the owner of the land.

V. THE OBLIGATION OF CONTRACTS

In *Superior Water, Light and Power Co. v. City of Superior*⁸⁰ it is held that the obligation of a franchise contract is impaired by the substitution by the state of an indeterminate permit to supply a municipality with water for an exclusive grant for a definite term with an obligation on the part of the municipality to purchase the supply system at the termination of such term at a specified price. *Tidal Oil Co. v. Flanagan*⁸¹ and *Fleming v. Fleming*⁸² emphasize the familiar rule that the obligation of a contract can be impaired, within the meaning of the contract clause, only by a state law and not by a judicial decision.

⁷⁹ 264 U. S. 472.

⁸⁰ 263 U. S. 125.

⁸¹ 263 U. S. 444.

⁸² 264 U. S. 29.

LEGISLATIVE NOTES AND REVIEWS

EDITED BY WALTER F. DODD

Advisory Referendum in Massachusetts on the Child Labor Amendment. When the Sixty-eighth Congress proposed an amendment to the Constitution of the United States giving Congress "power to limit, regulate and prohibit the labor of persons under eighteen years of age," it was generally believed that a prolonged fight against a serious economic and social evil had entered on its last stage and that the enactment would ere long be regularly incorporated in the Constitution as the Twentieth Amendment. But at the present moment there are grave doubts as to what will be the action of the states at the legislative sessions which opened in January, and predictions are freely made that the proposal is likely to meet decisive defeat.

On November 4 the voters of Massachusetts passed judgment on the proposition, "Is it desirable that the General Court ratify the following amendment to the Constitution of the United States:". . . The result shows that 697,563 voted no, 241,461 voted yes, a total 939,024, the heaviest vote cast on any of the seven propositions appearing on the ballot. The vote for governor was 1,161,510, showing that an unusually large percentage of the voters were interested. Not a single legislative district voted favorably.

When the proposed amendment was submitted to the General Court shortly before its adjournment early in June, the Boston Transcript, on June 5 declared that ratification was such a strong likelihood that "the process might as well begin with Massachusetts if the formalities of the submissions of the amendment by Congress shall have been fulfilled before the adjournment of our legislature." It was, continued the editor, in line with the humanitarian policy of the state, desirable for the protection of Massachusetts against unfair competition and "the only practicable means of accomplishing the suppression of a great evil." Unquestionably, prompt ratification would have attracted little attention and have been considered as the only action to be expected.

The session, however, was rapidly drawing to a close. A few days before adjournment attention was called to the fact that in 1920 the

General Court had stated in the preamble to a certain enactment, "It is hereby declared to be the policy of the Commonwealth that the General Court when called upon to act upon a proposed amendment to the Federal Constitution, should defer action until the opinion of the voters of the Commonwealth has been taken, relative to the wisdom and expediency of ratifying the same." Just as the session closed it was decided that the question should be submitted to the people on the November ballot.

In view of the frequent charges that the Eighteenth Amendment was ratified without proper consideration of public opinion on the subject and also that there is some demand for the amendment of the ratification process itself by requiring a popular vote on proposed amendments, the Massachusetts procedure is a matter of general interest. That there was a thorough public debate on the subject cannot be denied. A tremendous amount of publicity was given to the general subject of child labor and federal regulation. Naturally there is no agreement as to the merits of the arguments and while opponents of the amendment are acclaiming the result as a victory of common sense over the sentimentality of an organized minority, proponents are alleging that it is merely another triumph of elaborate propaganda conducted by the National Manufacturers Association, the Sentinels of the Republic, and similar organizations. That the action of Massachusetts will have far reaching consequences and greatly increase the difficulty of securing ratification in the requisite three-fourths of the states, is however a matter on which all parties are unanimous.

At first sight it might seem that Massachusetts would have given generous support to the measure. It has been frequently alleged that its industries are suffering from the competition of those states where regulatory measures are less stringent. Early in 1924 the General Court had memorialized Congress in support of the pending amendment. Its own child labor laws are enlightened; the state has been a leader in all forms of humanitarian legislation. The names of Senators Lodge and Walsh, and of President Coolidge, as well as those of several of its delegation in the House of Representatives, are identified with support of the proposed amendment. Why was its rejection so sweeping and decisive? The explanation must be sought in the arguments which were so extensively presented to the public in the two months prior to November 4.

An examination of the voluminous newspaper literature shows that

opposition concentrated on a few points; that the power given Congress was extreme, the proposed age limit of eighteen too high, that the word "labor" rather than "employment" would permit the exercise of numerous implied powers, that it would involve the creation of an elaborate and expensive bureaucratic machine, and that Congress could not be trusted to exercise its additional powers in a moderate and intelligent manner. The old arguments that the amendment is "Socialistic," "Communitistic," or "Bolshevistic," appeared in full strength and its disappointed supporters allege that the voters were "panic stricken" and voted "no" as a result.

Typical of the opposition argument is a manifesto issued by "The Citizens Committee to Protect our Homes and Children" on which appear the names of President Lowell, Cardinal O'Connell, Moorfield Story, and numerous other prominent citizens. The proposed amendment is denounced as giving Congress "undisputed power for all time to control and prohibit the labor of every person up to eighteen years of age, in the home, on the farm, and in the school. . . . It would enable Congress, through Federal agents, thus to interfere in the discipline of every household, and take from parents the right and duty to educate and guide their children." A prominent official of organized labor declared that "the children of the country will be at the mercy of the politician, and the parents of the children will have no control over their children should the Congress decide to enact laws that would place them in absolute control of a bureau." Perhaps the heaviest blow at the proposal came on October 5 when, in practically every church in the Archdiocese of Boston, the Roman Catholic clergy preached against its adoption. The argument was that it would permit Congress to regulate "not merely the working life but by implication to attach any preliminary condition, hours, occupations and wages, preliminary education," and to send "swarms of paid Governmental workers through the country, seeing that parents are complying with the bureau's ideas of bringing up their children, supervising their education as well as their hours of work and interfering in the sacred rights of parents over their children."

The latter quotation appeared in a publication generally considered to represent the views of the Church hierarchy. Its effect was apparently to silence several vigorous proponents of ratification. Mr. Curley, the democratic candidate for the governorship, who had been urging adoption, immediately reversed his position and became an equally vigorous opponent.

Friends of the amendment were placed on the defensive. They were obliged to argue that the amendment was merely an enabling act, that it did not in itself involve any regulation of labor of children up to eighteen years of age, and that Congress could be trusted to use its power in a sensible and reasonable manner. The latter was a difficult and thankless task. "Do not be fooled," said a prominent Protestant clergyman in opposition, "by the plea that Congress can be trusted to exercise common sense in the application of this law. When have we had any such exhibition of Congressional common sense?" The argument that the amendment would equalize competitive conditions among the several states seems to have been thrust into the background. Senator La Follette in an address in Boston urged a favorable vote both "on the broadest grounds of humanity" and as a matter of self-interest, charging that the manufacturers of the state were already in control of the Southern textile mills and were relying on the exploitation of children in states which had refused to adopt the enlightened laws of Massachusetts, and would gradually withdraw to such states the greater part of the business.

The decisive character of the vote suggests several interesting topics to the student of American democracy. It has certainly been one of the most effective "educational campaigns" ever conducted. Disgruntled partisans are citing it as a proof that it is possible to fool a considerable percentage of the populace if you have funds for propaganda. Others proclaim that it is the response of an intelligent electorate to the adequate presentation of a great public responsibility. In any case a few facts are outstanding, opposition to centralization of further control in the national government, profound distrust of the legislative branch of that government, and dislike for officious bureaucrats whose activities have been so much in evidence for the last eight or ten years. The argument that the amendment was the product of lobbying and intimidation by one of the numerous "organized minorities" met a favorable response. Ever since the Civil War the tide has been running strongly toward federal centralization. Is it about to turn? In view of the recent charges that the Supreme Court has frustrated public will, especially the desire to put child labor under federal regulation, the subsequent fate of this amendment in the states which have not yet taken action is a matter of special interest. It may well be that the decisions in *Hammer vs. Dagenhart* and *Bailey vs. Drexel Furniture Company* were not after all so different from lay opinion on the same subject. It is also evident that our prevailing

political philosophy is still one of distrust. American democracy has not yet reached the stage where it is willing to give its representatives power and responsibility and compel them to conform to public will in an intelligent and effective manner.

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Centralized Purchasing Agencies in State and Local Governments.

Centralized government purchasing, having been experimented with by the city of Chicago and the state of Texas, in 1898 and 1899 respectively, the institution gradually found acceptance elsewhere, so that by 1925 it was operating in twenty-seven states, about as many counties, and approximately seventy cities. The only state to abandon it has been North Carolina. Eight other states maintain semi-centralized or quasi-centralized purchasing agencies of limited operation or still in the experimental stage,—thus leaving only twelve states without some experience. The Dominion of Canada likewise maintains a purchasing agency as do six of the provinces and several municipalities.

The twenty-seven American commonwealths maintaining bona fide centralized purchasing agencies may be presented with the dates in which the agencies were created, and with the dates in which, in some instances, they were subsequently modified; Texas, 1899, 1913, 1915, 1919; Oklahoma, 1910; Vermont, 1912, 1917, 1921; Minnesota, 1913, 1917; Nebraska, 1913, 1919, 1921; New Hampshire, 1913, 1915, 1917, 1919; Alabama, 1915, 1919; California, 1915, 1921; New Jersey, 1916; Illinois, 1917; North Carolina, 1917, abolished in 1921; New York, 1918, 1922; Arizona, 1919; Idaho, 1919; Indiana, 1919; Michigan, 1919; North Dakota, 1919; Wyoming, 1919; Maryland, 1920; Oregon, 1920, 1921; Tennessee, 1920; Virginia, 1920, 1924; Montana, 1921, 1923; Utah, 1921; Washington, 1921; Massachusetts, 1922; Delaware, 1923.

The eight states maintaining the institution in a limited form prior to 1925 are: Rhode Island, Pennsylvania, West Virginia, Kansas, Iowa, Wisconsin, South Dakota and Nevada. The leading counties operating it are found in such widely distributed states as New York and New Jersey, Indiana and Michigan, and California and Oregon. The states in which cities operate it form just as comprehensive a sweep: Massachusetts, New York, Ohio, Michigan, Illinois, Iowa, and California. The larger cities maintaining it represented virtually every geographical section of the country: Boston, New York, Jersey

City, Newark, Philadelphia and Baltimore on the Atlantic Coast; New Orleans on the Gulf Coast; Dallas, Fort Worth, Houston, and San Antonio in the Southwest; Cincinnati, Cleveland, St. Louis, Kansas City, Indianapolis and Chicago in the Middle West; Des Moines, Detroit, Milwaukee, St. Paul and Minneapolis in the west North Central States; Los Angeles, Portland and Salem on the Pacific coast.

Similar systems have also been adopted by the Canadian provinces of Nova Scotia, New Brunswick (partially), Manitoba, Saskatchewan and British Columbia. The Canadian cities doing likewise include St. John, Fredericton, Moncton and the larger cities of British Columbia; while Toronto and Winnipeg each have partially centralized purchasing.

Active progress in the movement for centralized purchasing began about 1910, in connection with efforts in several states to foster economy and efficiency in government. These efforts included the reorganization and greater centralization of administrative machinery, the adoption of more systematic budget methods, and the inauguration of improved accounting systems. The general discussion of better business management in government had led to the study of centralized purchasing in some large private corporations. A greater impetus to the movement set in after the close of the World War, fifteen states adopting the system within five years. This may have been in part a result of centralized purchasing of supplies for the national guard units in the army.

In principle, state purchasing agencies are fairly uniform, but adjustment to different geographical, economic, and social environments has brought about some unique variations in application, as may be indicated by the variety of titles that have been given to the purchasing agents. Some states have created an entirely new office, some have designated an existing official as the buyer, some have delegated the functions to a group of three or more, still others have provided for a single officer to serve under a department. In Massachusetts, Washington, Utah, Ohio, and Tennessee respectively, he is designated as the purchasing agent, supervisor of purchasing, director of finance and purchase, superintendent of purchases and printing, and general manager of the board for the administration of state institutions. The purchasing department of Nebraska is the board of commissioners of state institutions consisting of three members; in Indiana it is the joint purchasing committee; in Oklahoma, the board of public affairs; in Idaho it is the department of public works; while

in Texas and California it is the chief of division of purchasing, and chief of division of purchases and custody, respectively.

Appointment of a single-headed agency is made by the governor in Utah and in Montana. In New York, Vermont, and in Michigan it is made by the governor with the advice and consent of the senate; in Maryland by the chairman of the central purchasing bureau, who in fact is the governor; in Minnesota by the board of control consisting of three members, who in turn are appointed by the governor; while in Oregon the secretary of the board of control is given purchasing powers. The director of the department of finance appoints the purchaser in Ohio, the director of business control in Washington, the board of directors of state institutions in Arizona and New Hampshire.

The term of the state purchasing agent is two years in Vermont, four years in Tennessee, and five years in New York. In some states the term is indefinite. For instance, in Michigan, Utah, and Montana the purchaser is appointed to serve during the pleasure of the governor; and in Ohio and Oregon he serves during the pleasure of the director of finance, and of the board of control respectively. The Oklahoma board of public affairs consisting of three members may be removed by the governor, but their normal terms are coterminous with his; while in Nebraska, the commissioners of state institutions are appointed by the governor for six-year terms.

Qualifications for the purchaser are either not specifically stated in statutes at all, or they are stated very vaguely so as to include local citizenship or good moral character or both. The statutes offer but little indication that the office may require professional training, although Washington requires that the purchaser shall have had experience in commercial pursuits and in accounting. Maryland stipulates the negative requirement that he "shall not be interested in or in any manner connected with, directly or indirectly, any contract or bid for furnishing materials" or supplies to any of the state institutions. Delaware requires equal representation of the two major parties in the board of state supplies which includes both the governor and the state treasurer.

The annual salary of the purchasing agents has ranged from the original \$2000 in Texas in 1913 to \$10,000 in New York in 1922 and thereafter. In Vermont it is \$3000; in Arizona \$4800; in Tennessee and Utah, \$5000; and in Montana it is \$5000, plus necessary traveling expenses. The statutes stipulate that it shall be not more than \$3000 in New Hampshire and in Oregon, nor more than \$4000 in Michigan.

In Oklahoma each of the three members of the board of public affairs receives \$3000 a year; while the three members of the Nebraska board of commissioners of state institutions receive \$4000. In some states, this salary is fixed by statute; in others by the central board under whom the agent serves.

Bonds have been required of the agents in some states. The amounts have varied from \$5000 in Utah and Oregon to \$50,000 in Tennessee, Oklahoma and Texas.

The jurisdiction of the state purchaser extends to the charitable, penal and educational institutions in Michigan. In Montana and California, it extends to virtually all arms of the state: departments, boards, commissions, educational institutions. In Utah it includes the state colleges, the national guard, and the historical society. The judiciary is exempt from the purchaser's domain in Texas, the military is excluded in Ohio, and the legislature in some other commonwealths.

This variety of jurisdiction naturally implies a corresponding variety in the amount of official power that is vested in the several purchasing agents. Their powers in some commonwealths scarcely rise above that of a coöperative information clerk. Otherwheres, it approaches that of a veritable martial commissariat. Prior to the Virginia Act of 1924, the powers of the purchasing agent of that dominion probably represented the most limited and nebulous of any such administrator. The Act of 1920 stipulated that the Virginia agent's powers should be "advisory and coöperative only." The state officers were "authorized, in their discretion, to seek the aid, assistance and coöperation of the state purchasing agent in the advantageous purchase of supplies of every nature needed for their respective functions, especially to the end that, by collective purchasing, cheaper prices may be obtained."

Some examples of the powers and limitations which govern the purchasing agents may be gleaned from the whole field of substantive legislation on this subject and set up as a composite of regulative maxims which in turn indicate some of the agent's activities. For example, agents shall advertise in standard publications for bids to supply the state services; bids for the sale of supplies must be sealed, accompanied with samples of the wares, and with a certified check equal to five per centum of the value of the proposal—for guarantee; agents must buy from the lowest responsible bidder; perishable commodities shall not be purchased through bids; institutional supplies shall be issued by the purchasing agent upon requisition only; officials violating the state purchasing law may be removed by the governor.

Ordinance power was granted to the superintendent of the New York department of purchase in 1922 which suggests a wide field of subordinate legislation. He was empowered to adopt rules for:

1. Authorizing state departments, boards, commissions, officers and institutions to purchase materials, equipment and supplies, limiting and defining their powers in relation thereto, and prescribing the manner in which such purchases shall be made;

2. Determining the state institutions to which advances may be made by the state treasurer for the purchase of materials, equipment and supplies pursuant to requisitions and estimates approved by the superintendent. Such a rule may be either general or may apply to one or more state institutions;

3. Prescribing the materials, equipment and supplies which shall be directly purchased as contracted by the department of supplies, and the manner in which such materials, equipment and supplies shall be delivered or distributed;

4. Controlling the storage and distribution of materials, equipment and supplies;

5. Prescribing the times for making requisitions and estimates, the periods for which they are to be made, the form thereof, and the manner of authentication.

6. Requiring reports by state institutions of stock of material, equipment and supplies on hand and prescribing the form of such reports;

7. Providing for such other matters as may be necessary to give effect to the foregoing rules and the provisions of this article.

These provisions were in harmony with the recommendations that Governor Nathan L. Miller made to the New York legislature in 1922. He urged that the "statute should be flexible enough to permit the department of purchase and supply to be organized on broad lines and gradually to take over the work without disarrangement of it. There should undoubtedly be three divisions of such a department—an accounting division, a stores control division and a purchasing division." The governor was very emphatic in his assertion that the system should not be hastily developed. Accordingly, the board grant of powers to the purchaser admitted of the gradual evolution of a sound system.

Administrative ordinances of still wider comprehension may eventually evolve from the Massachusetts commission on administration and finance which includes a purchasing bureau, also created in 1922.

The commission is required to make rules subject to the approval of the governor and council. These rules, regulations and orders, like those enacted by the New York superintendent, may be of general or of limited application, and they must provide for:

1. The advertisement for and the receipt of bids for supplies and other property and the stimulation of competition with regard thereto;
2. The purchase of supplies and other property without advertisement on the receipt of bids, where the amount involved will not exceed five hundred dollars, when, in the judgment of the state purchasing agent, it is expedient;
3. The purchase of supplies and other property without competition in cases of emergency requiring immediate action;
4. The purchasing of or contracting for certain supplies, equipment and other property of long or short-term contracts, or by purchases or contracts made at certain seasons of the year, or by blanket contracts or orders covering the requirements of one or more department offices and commissions;
5. Prescribing the times for submitting estimates for various supplies, equipment and other property;
6. Regulations to secure the prompt delivery of commissary and other necessary supplies;
7. Standardization of forms for estimates, orders and contracts;
8. Standardization of specifications for purchasing supplies, equipment and other property;
9. Standardization of quality, grades, and brands to eliminate unnecessary number of commodities or of grades or brands of the same commodity;
10. The purchase of supplies and other property locally, upon permission, specific or otherwise, of the state purchasing agent;
11. The use and disposal of the products of state institutions;
12. Disposal of obsolete, excess and unsuitable supplies, salvage and waste material and other property, and the transfer of same to other departments, offices and commissions;
13. Storage of surplus supplies, equipment and other property not needed for immediate use;
14. The testing of commodities or supplies or samples thereof;
15. Hearings on complaints in respect to the quality, grade or brand of commodities or supplies;
16. The waiver of rules in special cases.

Likewise, Montana in 1923 authorized the purchaser to issue, with

the approval of the state board of examiners, "such rules and regulations as may be necessary for the proper and economical conduct of the business of the State Purchasing Agent." The legislation provided, however, that after bids were submitted to the agent, each "bidder shall have the right to be present, either in person or by agent, when the bids are opened and shall have the right to examine and inspect all bids," and the "records shall be open at all times for the inspection of those who may be interested in such contracts" that might be made with the state.

Close scrutiny of expendable property is required of the purchaser in Oregon, and the managers of the institutions must furnish him with monthly estimates of needed supplies. The Montana Act of 1923 is specific upon this point. All "persons in charge of any State property, must, upon request of the State Purchasing Agent, furnish him with a sworn statement of all personal property in his possession or under his charge belonging to the State of Montana, together with an estimate of the value thereof, and must also furnish such other information in connection therewith, as the State Purchasing Agent shall require." Furthermore the state officials must "tabulate in detail the amount of supplies on hand at the beginning of each quarter and the additional supplies needed for the ensuing quarter. The State Purchasing Agent shall make examination of the amount of supplies on hand and shall determine from such examination and from the statements so furnished him," as in this section provided, the additional amount of supplies necessary and shall make an itemized statement thereof, all of which acts of said State Purchasing Agent shall be subject to approval of the Governor." The agent is authorized to follow up these reports by personal visits to the warehouses and supply-depots of any arm of the state government.

Likewise, the New York superintendent of purchases is given access to the offices of the state and may examine their books and require the officers to render any other information pertaining to purchases. In some states the purchasing agent may transfer the surplus commodities from one department to another or they may sell them. Commodities produced by institutions may also be sold when not needed for local consumption. Sometimes laboratories are maintained for the testing of commodities.

Wider activities such as these have rendered it necessary for the state purchaser to maintain considerable clerical or official assistance, and some of the statutes have provided for such personnel. Appar-

ently many of the states eventually will develop the agency into a larger bureau of purchasing.

This rapid rise of the state purchasing agency as an organic component of the state administration has enlisted the aid of several governors. In 1921-1924, a dozen governors' messages brought the subject to the attention of legislatures. Missouri, however, rejected the plan by a referendum vote in 1922. Governor Gifford Pinchot of Pennsylvania considered the idea as a reform measure. Governor Charles A. Templeton of Connecticut voiced his sentiments to the 1923 legislature when he declared that: "The adoption of such a plan is but the application of sound business principles which have long been successfully used by all well-managed industrial corporations. Such centralized purchases would result in incalculable benefits to the state. By standardizing and by quantity purchases of staple articles at competitive prices great savings in expense can be accomplished. Expert service in purchasing would also prevent wastage of supplies and materials and serve as a helpful preventive of unnecessary and unwise buying." He admitted that in the larger states of magnificent distances, certain practical difficulties might arise in the operation of such a plan, but Connecticut is a small, compact state, and with modern means of communication and transportation every institution is within convenient distance of the capitol, and these conditions are peculiarly favorable to the successful operation of centralized purchasing.

Governor Miller stated to the 1922 legislature of New York that the "human factor is undoubtedly a large element in the problem, but in my opinion the centralization of responsibility will focus attention upon the work and bring to light any errors or faults that may be committed, whereas now such error or faults, if they occur, are concealed by the numbers who may commit them and whose work is not under close observation. They would become critics under a centralized plan."

Governor Miller's assertions may have been based partially upon his observations of the county and city purchasing methods within his own state. For the 1921 legislature of New York had provided for local government centralized purchasing. New York cities of the first class containing one million inhabitants were authorized to maintain a municipal purchasing department to "consist of a purchasing agent, who shall be its head, and such assistants and with such salaries as the body which is by charter authorized to designate the number of

employees and fix salaries, may from time to time authorize. The purchasing agent shall be appointed and removable at pleasure by the same official or body who or which by charter is now authorized to appoint the heads of city departments. The purchasing agent shall appoint and remove at pleasure such assistants and employees as may be authorized." Unless the local legislative body shall provide otherwise the purchasing department "shall purchase and be responsible for the proper receipt of all materials and supplies, including those on which bids are obtained after publication of notice pursuant to law.

Similar provision is made for the smaller New York cities in that boards of contract and supply in second-class cities, and boards with similar powers in other cities, and the common council or similar legislative body in cities which have no boards of contract and supply or bodies with similar powers, shall make rules and regulations not inconsistent with general laws or their charter, which shall prescribe the procedure, conditions, methods and practices that shall prevail in regard to all purchases of materials and supplies by the purchasing department or agency, and all departments, boards, bureaus and offices of the city for which supplies are purchased shall obey and comply with such rules and regulations." The right to sell supplies is also accorded the city purchasing agency under qualified circumstances.

County centralized purchasing in New York was also authorized by the 1921 legislature by the provision that the "board of supervisors of any county not wholly within a city and having a population exceeding one hundred thousand and less than two hundred thousand inhabitants according to the last preceding federal census or state enumeration, may establish and maintain as a county charge a purchasing department or agency and appoint a purchasing agent to be the head thereof. The purchasing agent may appoint, and at pleasure remove, such assistants and employees, at such salaries or compensation, as the board of supervisors may authorize. Such purchasing agent may be removed by the vote of two-thirds of all the members elected to the board of supervisors after a hearing based on written charges preferred against such officer and served on him at least ten days prior to such hearing."

The duties of the county purchasing agent are similar in principle to those of the state agents, involving "all purchases, and all contracts for supplies, of every nature, for the county or for any county department, office, official, building or institution, or for which the county may in any event be liable." Supervision of the county pur-

chaser, is assured in the requirement that he "shall, upon the first day of each month, furnish to the board of supervisors and to the county comptroller or other chief fiscal officer or body a detailed statement, showing, up to a certain day of the preceding month, all purchases or contracts made by him, the quantity, price and total charges for each, and all supplies delivered and on hand and to what official, department or institution delivered. The county comptroller or other chief fiscal officer or body shall not audit nor pay any bill for supplies unless it shall fully appear that such supplies were ordered by the purchasing agent, and a bill therefor, duly verified, be presented to the said comptroller or other chief fiscal officer or body by the purchasing agent endorsed with his approval." Furthermore, all of the requisitions "received by the purchasing agent shall be filed in his office and shall be open to the public under reasonable regulations for their safety and preservation." Also, both the purchaser and some of his subordinates must file bonds with the county clerk approved by the county judge, after the manner of the requirements of some state purchasing agents. The analysis of state and local purchasing thus reveals the development of interlocking of administrative machinery within those co-operating governments.¹

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One House of Congress as Two. It has apparently always been assumed that, for the representation of population on the one hand and the representation of the states as such without regard to popula-

¹ The statutes cited herein may be found in the volumes of session laws for the states and years indicated in the text. A valuable photostat compendium of certain provisions of many statutes enacted prior to December, 1921, is Wm. Webb and C. Eveleen Hathaway's *Digest of Laws on State Purchasing Departments*, New York State Library. A detailed analysis and criticism of provisions contained in most of the acts passed prior to 1920 is included in A. E. Buck's essay on "The Coming of Centralized Purchasing in State Governments," *National Municipal Review*, Supplement Vol. IX, No. 2, pp. 117-135, (February, 1920), New York Bureau of Municipal Research and National Municipal League. Type-written data pertaining to current developments in government purchasing is available at the New York State Library, legislative reference section. Professional opinions on such agencies may be obtained from *The Purchaser*, which is published by the National Association of Purchasing Agents. A general treatment of the theory and practice of the system is A. G. Thomas' *Principles of Government Purchasing* (1919), Institute for Government Research Studies in Administration.

tion on the other, the maintenance of the two houses of Congress is necessary. But the same results might be attained, and more conveniently, by either the house of representatives or the senate alone. The house of representatives alone would suffice if only for the final enactment of legislation there were required a second assent of the house voting as a senate—each state delegation having (to preserve the *status quo*) the same number of votes divided equally among its members. Likewise, a similar additional assent of the senate voting as a house of representatives would eliminate the necessity for the latter—each senator having a number of votes equal to the number of members to which his state would be entitled in a house of representatives (or a mathematically accurate apportionment might be substituted). Under either plan deadlocks could be averted at least as easily as they can at present. Of course neither plan is going to be adopted—very soon. They both seem almost too “easy” to be new, and perhaps they are not.

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FOREIGN GOVERNMENTS AND POLITICS

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The British Election. After experimenting with coalitions and with a minority Labor government, the voters of Great Britain on October 29, in their third general election in two years, returned the Conservative party to power with a large majority over the combined opposition groups. Thus the traditional system of party government was restored.¹ The desire for stability and the fear of fundamental changes in the political and economic order were probably the chief causes of the overwhelming Conservative victory.²

In December, 1923, Stanley Baldwin, the Conservative premier, in seeking popular ratification for his tariff reform proposals dissolved parliament, although he had a comfortable majority in the House of Commons. The voters, however, rallied once again to the support of the historic free trade policy and while the Conservatives returned more members than any other party they lost their majority. The two wings of the Liberal party were reunited by the tariff issue and Labor greatly increased its power in the House of Commons.³

On January 21 following the election Mr. Baldwin's government was defeated by the Laborites and the Liberals and the king, following constitutional precedent, invited Ramsay MacDonald, leader of the Labor party, to form a ministry. The offer was accepted, in spite of the obvious difficulties inherent in continuous dependence upon the Liberals. For nine months the Labor government generally received the support of the Liberals, but only for policies which wholly satis-

¹ For a vigorous defense of the two-party system, see editorial in *Saturday Review*, Nov. 15, 1924, p. 488.

² *Times, Weekly Edition*, Oct. 16, p. 420; Nov. 6, p. 496. J. A. R. Marriott in *Fortnightly Review*, Dec., 1924 writes: "The issue was as plain as it was vital. The electors clearly perceived—that they were asked to pronounce for or against the principle of private property and individual enterprise; for or against the establishment of a really Socialist Commonwealth." P. 740.

³ W. T. Morgan, *The British Elections of Dec., 1923*, *American Political Science Review*, May, 1924, pp. 331-340.

fied neither the Liberals nor Labor. When, in a speech at the National Liberal Club Mr. Asquith advised his followers to put Labor in office he pointed out that under a Labor government the Liberals would obviously hold the balance of power.⁴ This "forced eating out of Mr. Asquith's hand" proved very unpalatable to Mr. MacDonald. The actual relations between the "allies" were characterized by mutual suspicion. Liberals frequently accused the prime minister of gross ingratitude, while the latter showed in speech and act that he despised and mistrusted the Liberals.⁵

In spite of many difficulties, however, the Labor government carried through a legislative program of considerable importance.⁶ Mr. Snowden's budget calling for a reduction of the burdensome income tax rates met with great public favor. The Housing Act, which provided for an extension of the building subsidy scheme of the previous administration and added a subsidy to rents, was, however, widely criticised. Minor modifications were made in the old-age and unemployment insurance policies. Labor suspended the construction of the Singapore naval base, but despite protests began the building of several new cruisers. Its last important measure was that empowering the British government to appoint a representative for Ulster to act on the boundary commission in case Ulster should persist in refusing to appoint one. This latter measure received cordial Liberal support.

⁴ *Times, Weekly Edition*, Dec. 27, 1923, p. 688. In the debate which resulted in the downfall of the Baldwin government Mr. Asquith made it clear that he did not propose to give a blank cheque to Labor. See *Ibid.* Jan. 24, 1924, p. 84.

⁵ See C. F. G. Masterman, *The Dissolution*, *Contemporary Review*, Nov., 1924, for a Liberal's view of the relations between Labor and Liberals. *The New Statesman*, Oct. 11, p. 4, in an editorial says: "A very large majority of the House of Commons wishes him to remain in office at any rate until next summer, but he has deliberately challenged it on issues which it could not support without utterly humiliating itself. He has had a magnificent chance which he seems wantonly to have thrown away. As Foreign Secretary he has been an immense success; as Prime Minister he has been an utter failure. He has never recognized the inevitable limitations of a minority government. He has never poured oil on the troubled waters, but almost always has said the word that was best calculated to exacerbate party feeling. If he had treated his Liberal allies with even common courtesy he might have remained in power not merely until 1925 but for some years to come, possibly even for a decade."

⁶ Wedgwood Benn, *Nine Months of Labor Government*, *Contemporary Review*, Oct., 1924, pp. 417-424; Harold Spender, *Is Liberalism Dead*, *Fortnightly Review*, Dec., 1924, pp. 731-737; *Times, Weekly Edition*, Oct. 2, p. 364; Oct. 16, p. 415; *Manchester Guardian Weekly*, Oct. 10, p. 308; *Nation and Athenaeum*, Nov. 8, p. 203.

The most important services rendered by the Labor government were, however, in the field of foreign relations.⁷ Mr. MacDonald, who acted as foreign secretary as well as prime minister, succeeded in breaking the seemingly hopeless deadlock between Great Britain and France and in developing a spirit of cordial coöperation between the two governments. It was certainly no mean accomplishment to heal the Franco-British breach and to secure approval for the Dawes plan on both sides of the Rhine. It must, of course, be recognized that Mr. MacDonald did not achieve these results single-handed, that he was greatly aided by the political changes that took place in French politics. There is no doubt, however, that to him belongs a large share of the credit for the improved condition of British relations with other countries.

Shortly after it took office the Labor government officially recognized the Soviet government of Russia; whereupon it proceeded to negotiate a treaty with Russia, which was finally signed early in August.⁸ This treaty was at once widely and severely criticised by Liberals and Conservatives, and by the business interests generally, and it became one of the chief reasons for the government's defeat and an important issue of the campaign. When parliament reassembled on September 30 Mr. Asquith at once handed in a motion for the rejection of the treaty on the ground that it, "instead of providing a genuine contribution toward solving the problem of unemployment, threatens to divert resources which are urgently needed for national and imperial development and amongst other objections, contemplates that the British

⁷ *Spectator*, Oct. 18, 1924, p. 533 said: "We all acknowledge the dignity and distinction with which he [MacDonald] has spoken on many occasions, and we all acknowledge that in foreign policy he has interpreted the wishes of the country with more address, and perhaps with more insight, than any other Foreign Secretary of recent times." For a sympathetic review of Mr. MacDonald's work as Foreign Secretary see Hugh F. Spender, Mr. MacDonald at the Foreign Office, *Fortnightly Review*, Dec., 1924, pp. 782-792; also Sisley Huddleston, *New Statesman*, Oct. 18, p. 39.

⁸ For a vigorous attack on Labor's recognition of the Soviet government see George A. B. Dewar, Britain's Recognition of the Soviet Government, *Foreign Affairs*, Dec. 15, 1924, pp. 313-319; also W. F. Lloyd, The Soviet, and Our Disgraceful Traffic With It, *Nineteenth Century*, Oct., 1924, pp. 487-493. For the Liberal attitude toward the treaty see The Case against the Russian Treaty, Supplement to *The Nation and Athenaeum*, Oct. 18, 1924; also *The Manchester Guardian*, Sept. 26, p. 261 and Oct. 3, p. 278. For the Conservative attitude see *Times, Weekly Edition*, Oct. 2, p. 356; Oct. 9, p. 387; Oct. 23, p. 448. For the Labor defense of the treaty see Arthur Ponsonby, The Case for the Russian Treaties, *Contemporary Review*, Dec., 1924, pp. 697-702.

taxpayer should be made liable for further loans to the Russian state raised by means of the guarantee of the British government, as the conditions upon which any part of the private claims of certain British creditors should be recognized by the Soviet Republic."⁹

It was, however, not the Russian treaty that was to be the immediate occasion for the defeat of the Labor government. Mr. MacDonald dissolved parliament because the House of Commons on October 8 adopted a resolution in favor of an inquiry into the dropping of a prosecution against a Communist editor charged with sedition.¹⁰ Early in August the director of public prosecutions brought legal action against John Ross Campbell on the ground that he had published in the *Workers' Weekly* an article designed to promote disloyalty among the military forces. Later, the prosecutor withdrew the charges, in accordance with directions from the Attorney General, Sir Patrick Hastings. When the Communist party leaders stated that the responsibility for the withdrawal of the charges rested upon the Labor government alone, and that the government's action had been brought about by the pressure applied by Labor members of parliament, the opposition leaders were convinced that the government's action should not be allowed to go unchallenged. They saw in it a serious interference with the course of justice. Hence when the attorney general's replies to questions proved unsatisfactory to them the Conservatives introduced a resolution of censure. The Liberals submitted an amendment which called for the appointment of a select committee to inquire into the circumstances leading to the withdrawal of the prosecution. After a full discussion, the cabinet decided that the Liberal amendment would be unacceptable. In his speech before the annual conference of the Labor party Mr. MacDonald stated that the amendment was "conceived in the spirit of mediaeval crookedness and torture, that it was designed not to censure the government but only to insult it, not to execute it but to put it on the rack."¹¹ The vote on the Liberal amendment, which was supported by the Conservatives, was 364 ayes to 198 nays. The majority against the government was made up of 236 Conservatives, 121 Liberals, and 2 Independents. Fourteen Liberals, 2 Conservatives, 2 Nationalists, and 1 Independent voted with the government. On the following day (October 9) parliament

⁹ *Times, Weekly Edition*, Oct. 9, p. 384.

¹⁰ *Times, Weekly Edition*, Oct. 16, p. 414.

¹¹ *Times, Weekly Edition*, Oct. 9, p. 384, gives an abstract of Mr. MacDonald's speech.

was dissolved. The prime minister announced that polling would take place on October 29.¹²

Shortly after the dissolution the party leaders issued their election manifestos.¹³ The Labor statement, signed by Mr. MacDonald, placed the blame for the election upon "a partisan combination of Liberals and Tories." It called attention to the progress made under Labor leadership toward the establishment of the peace of Europe, from the benefits of which Labor refused to exclude the Russian people. The proposed treaty with that country, it was claimed, would open new outlets for British manufactures and coal, and would be subject to parliamentary sanction in regard to all of its features. The government took credit for passing a great housing charter which would provide low rental houses and a continuing policy of slum clearance. Its first budget swept away £30,000,000 of taxes on food. "Apart from the necessary transformation of the whole industrial system," the government had done everything possible to relieve unemployment by working out a scheme of national development and by attempting to restore trade with other countries. Its policy was still: Work or Maintenance. Among the other plans "which the Liberals and Tories combined to stop" were mentioned: the reorganization of the mining industry, the railroads, and canals on the line of national ownership, the taxation of land values, a system of national power stations, the prevention of profiteering, and a further restriction of rents. The manifesto concluded with an appeal for the establishment of a "really Socialist Commonwealth."

The Conservative manifesto, issued by Mr. Stanley Baldwin, blamed the government for forcing a rush election because of its fear of an impartial inquiry in the Campbell case and for patching up an indefensible treaty with the Soviets. It ascribed to the government nothing but utter failure in dealing with unemployment. Although a general tariff was no part of the Conservative program, the party promised to "safeguard the employment and standard of living of the people in any efficient industry in which they were imperilled by unfair competition by applying the principle of the Safeguarding of Industries Act." Industrial revival, according to the manifesto, could be secured by measures of imperial preference. The party proposed to summon a conference to inquire into the problem of agriculture and to appoint a royal commission to investigate the cost of foodstuffs. Mr. Baldwin

¹² *Times, Weekly Edition*, Oct. 16, p. 414; *Manchester Guardian Weekly*, Oct. 10.

¹³ *Times, Weekly Edition*, Oct. 16, p. 412; *Manchester Guardian Weekly*, Oct. 17.

appealed for "a broad and stable government based on an independent majority in parliament."

The Liberal statement was signed by Mr. Asquith and Mr. Lloyd George. Like the statement of Mr. Baldwin, it placed responsibility for the election upon the government and attacked it for declining an inquiry into the Campbell case and for evading a parliamentary discussion of its "reckless proposal to guarantee, at the risk of the British parliament, a loan to the Communist government of Russia." The party had rejected the crude Labor schemes for nationalization, but it had supported every move for sound social reform. The party promised to restore agriculture by a policy which would "combine advantages of ownership and of tenancy without the disadvantages of either," and to make coal a great national asset by empowering the state to acquire all mineral rights and to provide state assistance and direction in building super-power stations. It reiterated its devotion to free trade and advocated electoral reforms which would bring about a real correspondence between electoral strength and parliamentary representation.

Nominations were made on October 18. Thirty-two members were returned unopposed: 16 Conservatives, 9 Laborites, 6 Liberals, and 1 Nationalist. For the remaining 583 seats there were 1393 candidates, distributed among the parties as follows: Conservatives, 518; Constitutionalists, 10; Laborites, 500; Liberals, 333; others, 32. Excluding the two-member, Ulster and university constituencies there were 226 three-cornered contests and 314 straight fights, of which 50 were between Conservatives and Liberals, 44 between Laborites and Liberals, and 217 between Conservatives and Laborites.¹⁴ An interesting feature of the election because of its bearing upon the real issues of the campaign was the number of cases in which a Liberal or a Conservative candidate withdrew in order to prevent the Labor candidate from winning in a three-cornered contest.¹⁵ In the 1923 election Labor secured in the single-member constituencies more than 60 seats by a minority vote. In some thirty of these there were no Liberal candidates in the 1924 election, while in ten of the others there were no Conservative candidates. These so-called "pacts" proved to the advantage of the Conservatives.¹⁶

¹⁴ *Manchester Guardian Weekly*, Oct. 24, p. 344; *Times, Weekly Edition*, Oct. 23, pp. 440 and 442.

¹⁵ *Times, Weekly Edition*, Oct. 16, p. 412; *Manchester Guardian Weekly*, Oct. 17.

¹⁶ *Times, Weekly Edition*, Nov. 13, p. 530. See also Hugh Dalton, *The General Election*, *Contemporary Review*, Dec., 1924, pp. 688-692.

The campaign was brief, even for a British election, but it lacked nothing in intensity. The party leaders made extensive speaking tours and belabored each other without mercy.¹⁷ Mr. MacDonald delivered his first important address in Glasgow. The real cause of the forced election, he said, was Labor's success in governing the country. This had distressed the Liberals and the Conservatives so much that in spite of their mutual suspicions they had laid their heads together and plotted the downfall of the government. They had scoured the fields to find prejudices against him and had finally decided that he had been tampering with justice. He wanted capital and credit for British industries, but was sure that markets were equally essential. The proposed loan to Russia was designed to provide markets for British goods. The proceeds of the loan would be spent in Britain for British goods, and would thus never leave the country at all.¹⁸ The advantages of the Russian treaty and the success of the government in foreign affairs and in finance were the chief points stressed by the Labor candidates.¹⁹

In his Queen's Hall speech Mr. Baldwin said that the ministry had been controlled by its extremist elements and had thus been unable to play the part of a patriotic and constitutional government. He prophesied that if Labor should secure a majority the country would be in for a period of reorganization of everybody and everything. Private enterprise, given fair play, meant to him efficiency. He blamed the Socialists for not having done anything to relieve unemployment and for having increased the doles. He thought they were indeed the "cheapjacks" of politics.²⁰ Condemnation of the Russian treaty, the dangers of socialism, and the desirability of maintaining the historic institutions of the country, were the main topics discussed by the Conservatives.

Mr. Asquith, Mr. Lloyd George, and the Liberal candidates generally advanced arguments that were quite similar to those of their Conservative opponents. There were the same attacks on socialism, on the Russian treaty, and on Labor's failure to solve the problem of unemployment, freely interspersed among arguments seeking to prove that

¹⁷ The most bitter speeches of the campaign were made by Lord Birkenhead and Mr. Churchill, the latter having again become a Conservative. See *Nation and Athenaeum*, Oct. 25, p. 139, for an estimate of Lord Birkenhead's campaign methods.

¹⁸ *Times, Weekly Edition*, Oct. 16, p. 412.

¹⁹ *Times, Weekly Edition*, Oct. 23, p. 440; Oct. 30, p. 468.

²⁰ *Times, Weekly Edition*, Oct. 23, p. 440; Oct. 30, p. 470.

the country's salvation lay in a middle course between reaction on the one hand and radicalism of the red variety on the other.²¹

A few days before the election the public was deeply stirred by the exciting incident of the Zinovieff letter. On October 24 the Foreign Office published a letter signed by Zinovieff, president of the central committee of the Third International, and addressed to the British Communist party. The letter urged English Communists to prepare for the proletarian revolution by fomenting disloyalty in the military and naval forces and by spreading seditious propaganda among the working people. The government published at the same time a vigorous protest which it had forwarded to the Soviet authorities. The British note held the Russian government responsible for the act of the Third International and called attention to the fact that the Zinovieff letter constituted a clear violation of a solemn agreement recently made by Russia to refrain from spreading propaganda in the British Empire. On the day following, the Russian government, through its chargé d'affaires, M. Rakovsky, answered the Foreign Office note and called the Zinovieff letter "a gross forgery and an audacious attempt to prevent the development of friendly relations between the two countries." It protested strongly against the use of a "forged document" in accusing the Soviet authorities, and demanded an apology.²² An interesting point in the controversy was the fact that a Conservative newspaper published the letter at the same time that it was given to the press by the government. In some of his speeches Mr. MacDonald gave the impression that he believed the letter authentic, but he admitted that he did not understand how it came into the possession of the Conservative press. The Labor headquarters, however, issued a statement which declared: "It is singular that copies of the letter were in the possession of the Daily Mail and the Conservative Headquarters before it had been issued by the Foreign Office to the general press."²³

The Liberals and the Conservatives naturally made the most of the embarrassing situation in which the Labor government found itself.²⁴

²¹ *Times, Weekly Edition*, Oct. 23, p. 440; Oct. 30, p. 470.

Mr. Lloyd George gave considerable attention to the question of land reform for which he proposed a new scheme.

²² The Zinovieff letter, the Foreign Office note, and M. Rakovsky's reply are printed in *Times, Weekly Edition*, Oct. 30, p. 473, and in the *Manchester Guardian Weekly*, Oct. 31, p. 372. The issue is analyzed in the latter, p. 366.

²³ *Times, Weekly Edition*, Oct. 30, p. 468.

²⁴ Hugh Dalton, The General Election, *Contemporary Review*, Dec., 1924.

Mr. MacDonald's statement that the Foreign Office note was given to the press before he had been allowed an opportunity to see it in its revised form, accompanied by proofs of the authenticity of the letter, was singled out for special criticism as casting aspersions on the officials of the Foreign Office.²⁵ If the letter was authentic, it was pointed out, it was strange that the prime minister should have continued to advocate his treaty with a government whose promises to refrain from subversive propaganda had again been proved of no value. If, on the other hand, the letter was a forgery—a "despicable plot," as he had intimated in one of his addresses—then he must justify a vigorous protest against a "forged document" by his own Foreign Office.²⁶ Before the Labor government gave up office it made a hurried investigation of the whole affair, but finally announced that it had been unable to come to any definite conclusion as to the authenticity of the letter.²⁷

The Zinovieff letter doubtless cost the Labor party many votes. It greatly added to the already prevailing hysteria caused by the discussion of the proposed Russian treaty and the Campbell case. "Millions of electors," says one of the Labor candidates, "one must suppose, honestly believed that Labor candidates, and members of the Labor government were personally implicated in a 'plot' to raise a 'Red Army' in Britain, to drown the existing order of society in a 'bloody revolution,' to destroy the Christian religion, to confiscate all private property, and to 'nationalize women.'"²⁸

That the voters of the country were greatly aroused by the issues of the campaign was shown by the large vote polled. The *Times* estimated the electorate at 20,641,342, and in its final analysis of the voting it states that the actual votes cast numbered 16,639,760, or slightly more than eighty per cent. The following table shows how

²⁵ See editorial in *Times, Weekly Edition*, Oct. 30, p. 476, and editorial in *Manchester Guardian Weekly*, Oct. 31, p. 362.

²⁶ The inconsistencies in Mr. MacDonald's statements in regard to the letter are skillfully exposed in a leading article in *New Statesman*, Nov. 1, pp. 100-101. The suggestion is made that the letter was a hoax that originated in the Secret Service. For a scathing analysis of Mr. MacDonald's course in regard to the letter see *Spectator*, Nov. 1, pp. 630-1; 632.

²⁷ *Times, Weekly Edition*, Nov. 13, p. 530. The Baldwin government shortly after taking office stated in a note to M. Rakovsky that it considered the Zinovieff letter authentic. It also informed the Soviet authorities that the Russian treaty would be dropped. *Times, Weekly Edition*, Nov. 27, p. 586.

²⁸ Hugh Dalton, The General Election, *Contemporary Review*, Dec., 1924.

the votes were distributed in the 1923 and 1924 elections, together with the number of seats each party obtained in the two contests.²⁹

PARTY	VOTE IN 1923	MEMBERS AT DISSOLUTION	VOTE IN 1924	MEMBERS IN NEW PARLIAMENT
Conservative.....	5,497,476	258	7,864,402	413
Labor.....	4,372,474	193	5,508,482	151
Liberal.....	4,262,264	158	2,929,571	40
Constitutionalist.....			175,285	6
Others.....	329,638	5	162,020	5

The foregoing table shows that under the present electoral system, and with three strong parties in the field a minority of the electorate can secure an overwhelming majority in the House of Commons. The Conservatives, with but 47 per cent of the voters, secured 67 per cent of the seats, while the other parties combined, with 53 per cent of the voters, secured only 33 per cent of the seats. The Conservative party obtained a member for every 19,000 votes; the Labor party, one for every 36,000; and the Liberal party, one for every 73,000. The Labor delegation in the House of Commons was reduced from 193 to 151; but the Labor vote was increased by 1,136,000.³⁰ A considerable part of this increase was the result of the larger number of candidates in constituencies where formerly the Labor party had none. In the same way a good part of the falling off in the Liberal vote was due to the smaller number of candidates.

The following tables, prepared on the basis of the election returns published in *The Times Weekly Edition*,³¹ show the results of the two-party and triangular contests, exclusive of those in the two-member constituencies, those in Northern Ireland, and the university seats. The second table shows also the number of victories each of the major parties won by majority votes and by pluralities.

²⁹ Nov. 20, p. 556.

³⁰ The Liberals who had suffered most from the unrepresentative electoral system were naturally the most vigorous critics of it. *The Outlook*, Nov. 8, p. 322, however, in commenting on the calculations of the advocates of electoral reform, which showed that under proportional representation the new House would have been much like the old one, says that the country should be grateful for the present system. See *Manchester Guardian Weekly*, Nov. 7, p. 386.

³¹ Nov. 6, pp. 498-502.

Two-Party Contests

	CONSERVATIVES VS. LABOR		CONSERVATIVES VS. LIBERALS		LABOR VS. LIBERALS	
	Won by Con- serva- tives	Won by Labor	Won by Con- serva- tives	Won by Liberals	Won by Labor	Won by Liberals
London Boroughs*	20	4			5	1
English Boroughs†	49	26	5	1	6	6
Welsh Boroughs	1	1			2	1
Scottish Burghs	9	9	1		6	2
English Counties‡	49	20	38		4	2
Welsh Counties	1	4		1	2	5
Scottish Counties	10	7	4		1	1
Total	139	71	48	2	26	18

* In one constituency a Communist won over a Constitutionalist.

† In a Sheffield district a Conservative won over an Independent; in a Birmingham district Austen Chamberlain won over a Communist. There were four straight contests between Constitutionalists and Labor. Of these each party won two.

‡ There were three contests between Constitutionalists and Labor. Two of them were won by Constitutionalists.

Triangular Contests

	CONSERVATIVES		LABOR		LIBERALS	
	Major- ity	Minor- ity	Major- ity	Minor- ity	Major- ity	Minor- ity
London Boroughs*	8	6	3	7		1
English Boroughs†	24	27	2	14		2
Welsh Boroughs		3				1
Scottish Burghs‡		2		1		
English Counties§	62	28	1	10		
Welsh Counties		4				1
Scottish Counties		10		1	1	
Total	94	80	6	33	1	5

* In one contest a Liberal won a minority seat over a Communist and a Conservative.

† In one constituency a Conservative won by a majority over a Liberal and a Communist; in another a Constitutionalist won a minority seat over a Laborite and a Liberal.

‡ One Liberal was elected by a minority vote over a Communist and a Laborite.

§ One Constitutionalist was elected by a minority vote over Labor and Liberal opposition, while another (Churchill) won by a majority over a Liberal and a Laborite. One Independent was elected by a minority vote over a Laborite and a Liberal.

In Northern Ireland two Conservatives were returned unopposed. The other ten seats were won by the Conservatives by large majorities over their Republican opponents. Of the university seats the Conservatives secured seven, the Liberals three, and the Independents one. Conservatives won fifteen seats in the two-member districts, the Liberals and Labor three each, and Independents one.

The most striking result was the rout of the Liberal party. A large number of its most trusted leaders, including Mr. Asquith, went down to defeat. Mr. Lloyd George, however, retained his seat by a large majority over his Labor opponent, Professor A. E. Zimmern. As soon as the extent of the Liberal defeat was known the leaders of the party set about reorganizing their shattered ranks. At party conferences the policy of withdrawing Liberal candidates and thus insuring Conservative victories was strongly condemned. Mr. Asquith urged that in succeeding elections the party should place candidates in all constituencies. Only by so doing, he declared, could the party's appeal be made effective, for the voters would not show confidence in an organization that by its small number of candidates admitted that it accepted a minority status.³²

The Labor leaders expressed themselves as pleased with the results they had obtained. Although they deplored their loss of seats, they pointed to the increased number of votes in the country. They freely stated that their main object, the destruction of the Liberal party, had been realized. "At all events," declared the *Daily Herald*, "the election results clear the air. Now we know where we are and what forces we have got to conquer. We have shaken off false friends. . . . The three party system was a nuisance. The English mind could not understand it. It would have taken us a long time to destroy it by gradually beating the Liberals. Fortunately they decided to save us this trouble; they have committed suicide. There is now no Liberal party. There are only fragments which will rapidly be absorbed either into Toryism or into Labor."³³

³² *Times*, Weekly Edition, Nov. 13, p. 530; *Manchester Guardian Weekly*, Nov. 7.

³³ Quoted in *Living Age*, Nov. 22, p. 405. For views relative to the future of the Liberal party see *Nation and Athenaeum*, Nov. 8, p. 206, and *Spectator*, Nov. 22, p. 769. *The Saturday Review*, Nov. 1, p. 437, agreed with the Labor view in regard to Liberalism saying, "Next to the extent of the Conservative victory the most remarkable result of the election has been the Liberal catastrophe. English Liberalism is in its death agony. Nothing could have pointed more surely to its senility and decay than the barrenness of its propaganda during the campaign, both in its press and on its platforms." Mr. Churchill credited the Liberal disaster to its mistake in putting Labor into power; *Times*, Weekly Edition, Nov. 6.

On November 4 Mr. MacDonald resigned and the king summoned Mr. Baldwin and invited him to form a ministry. The new Conservative cabinet contains the following members: Mr. Stanley Baldwin, Prime Minister, First Lord of the Treasury, and leader of the House of Commons; Mr. Austen Chamberlain, Secretary of State for Foreign Affairs; Lord Salisbury, Lord Privy Seal; Marquess Curzon, Lord President of the Council and leader of the House of Lords; Lord Cave, Lord Chancellor; Mr. Winston Churchill, Chancellor of the Exchequer; Sir William Joynson-Hicks, Secretary of State for Home Affairs; Mr. L. C. M. S. Amery, Secretary of State for the Colonies; Sir L. Worthington-Evans, Secretary of State for War; Lord Birkenhead, Secretary of State for India; Sir Samuel Hoare, Secretary of State for Air; Mr. W. C. Bridgeman, First Lord of the Admiralty; Sir Philip Lloyd-Greame, President of the Board of Trade; Mr. Neville Chamberlain, Minister of Health; Mr. E. F. L. Wood, Minister of Agriculture and Fisheries; Sir John Gilmour, Secretary for Scotland; Lord Eustace Percy, President of the Board of Education; Sir Arthur Steel-Maitland, Minister of Labor; Sir Douglas McGarel Hogg, Attorney-General; Lord Peel, First Commissioner of Works; and Lord Cecil, Chancellor of the Duchy of Lancaster.³⁴

ELMER D. GRAPER.

University of Pittsburgh.

Political Science in Great Britain and France.¹ In response to requests for information concerning recent developments in political science in Great Britain and France, the following accounts were received from Professor Harold J. Laski, of the London School of Economics and Political Science, and M. Maurice Caudel, of L'École Libre des Sciences Politiques and editor of the *Revue des Sciences Politiques*:

Great Britain. It will be well-known to American students of political science, especially since Professor Fairlie's very careful survey in a previous number of the *Political Science Review*, that there is practically no organized study of political science in Great Britain. There is no Political Science Association; there is no review wholly devoted to its problems, since the death, in 1915, of Professor Adams'

³⁴ *Times, Weekly Edition*, Nov. 13, p. 528.

¹ Presented by F. A. Ogg to the Round Table on Comparative Government at the Washington meeting of the American Political Science Association, Dec. 31, 1924.

admirable *Political Quarterly*; and, outside the London School of Economics and Political Science, there is little attempt at its organized teaching. For the most part, our universities are content with a course of lectures on the government of England, and critical accounts, of widely varying quality and content, of the philosophy of the state.

This does not imply that excellent work is not done in political science by Englishmen; but it would be true to say that, apart from its legal and historical sides, it has not been usual for such work to be done in the universities. The best administrative studies usually come from civil servants like Sir Courtenay Ilbert, in the last, and Sir Arthur Salter, in the present, generation; the best general essays have come from the amateur at the center of things, like Bagehot and Sir Sidney Low. I do not seek to account for this situation; but it is not inadvisable to bear it in mind in reading the remarks which follow.

Mr. Ogg has asked for a general account of what has happened in political science in the last year. I am tempted to reply simply that some books have been published, none of them remarkable, but a few very useful; that, through the medium of the Institute of Public Administration, the civil service has begun to realize the great contribution it has it in its power to make in political science; and, thirdly, that certain small changes in the emphasis of doctrine are perceptible. I shall deal separately with each of these.

Of books, the most important single volume is Mr. E. A. M. Lloyd's *The Mechanism of Certain State Controls*. This is a full and impartial account, with the necessary documents, of the vast experiments in socialization undertaken by Great Britain during the war. Its conclusions bear out very strikingly Sir Arthur Salter's views in his *Allied Shipping Control*. Another volume of interest is Mr. H. B. Lees-Smith's *Second Chambers in Theory and Practice*, a careful and interesting survey which may be taken to summarize the reforms a Labor government would attempt if it got a majority in the House of Commons. A third book which has been widely recognized is Dr. Herman Finer's *Representative Government and a Parliament of Industry*, on the whole the best existing account of the Economic Council in Germany and its workings. Other books which have great merit are, Ilbert and Meston, *The New Indian Constitution*,—a friendly account,—and A. Corthill, *The Lost Dominion*, easily the best statement of the case for "diehardism" in India; with both of which should be compared B. G. Sapse, *Government of British India*, which is the best single-volume analysis of that government's evolution and struc-

ture. These are all on the administrative side. On the historical, I know only of two books, *Social and Political Ideas in the Middle Ages* (ed. Hearnshaw) in which there are admirable essays by Principal Barker, Miss Power, and Mr. Jacob, the last of whom is rapidly making himself the first authority in England on his subject; and C. R. and M. Morris, *Short History of Political Ideas*, which will interest the American teacher as showing what that subject means at Oxford. A new series of political reprints has also been started, in which the *Vindiciae contra Tyrannos*² constitutes the first volume. On the side of theory, the only work of any significance is Mr. A. D. Lindsay's paper in the *Proceedings* of the Aristotelian Society; though, with the permission of the sociologists, I should like to claim Professor Hobhouse's *Social Development* for political science and mark it out as the most distinguished book of the year.

On the legal side there are two books and three controversies to be noticed. Mr. A. B. Emden's *The Civil Servant and the Law of the Constitution* is pioneer work of its kind, and wholly admirable work; and Mr. C. T. Carr's *Delegated Legislation* is a model of succinct yet suggestive statement. The controversies of importance are those over the Irish deportations, on which see *in re O'Brien*, and the legal press of March-May 1923; the problem of the royal power in relation to the dissolution of Parliament, on which see the references in my *State of Parties and the Right of Dissolution*; and the Campbell case, which raises the question of the judicial nature of the Attorney-General's Office, on which see Hansard, Oct. 8, 1924, and a letter from Sir H. Stephen in the *Times* of October 7.

Books apart, the outstanding fact in our political science at the moment is the renewed interest in a scientific public administration. That is shown not only by the foundation of the Institute and its journal; not only, also, by the work of recent royal commissions and departmental committees, of which that on local government is perhaps the most notable, but, above all, by the degree to which it is now becoming possible to obtain a considerable audience for lectures and books upon this subject. The value of government publications is more widely realized than ever before; and the reports of the Works Committees of 1917, and of the Machinery of Government Committee of 1918 have sold ten times more widely than was anticipated. There is in contemplation a series of monographs on the government departments; and the Fabian Society proposes to issue pamphlets on public administration and its reform.

² Edited, with an admirable introduction, by Mr. Laski (F. A. O.).

In political theory, little has happened that is creative. The deaths of Bosanquet and Bradley remove the most considerable figures in English political philosophy since T. H. Green; and Sir Henry Jones, though not an original thinker, was at least a popularizer of eminent ability. On the Hegelian side, no one, at present, seems likely to take their place; the leaders who remain,—Cole, Russell, Hobhouse—are all anti-idealist in outlook. But it must be confessed that the left wing has not produced a coherent philosophy of their own. Mr. Wallas becomes more and more a pure psychologist; Mr. Ginsberg is devoting himself to sociological method; Mr. Cole has taken to history; and Mr. Russell is revising *Principia Mathematica*. Mr. and Mrs. Webb have produced in their *Constitution for a Socialist Commonwealth* a brilliant study of institutions, but it is not a philosophy. Mr. Tawney's *Acquisitive Society*, the most influential English book of the last fifteen years, deals with only one aspect of the problem. Idealism is still the dominant note at Oxford and Cambridge, largely, I believe, because no attempt has been made at the coherent statement of alternative views. In 1920, guild socialism was the fashionable doctrine of the time; its influence is now almost negligible. Its importance has come to lie in its emphasis upon industrial decentralization, and it is generally agreed that it is not a theory of the state.

In conclusion, I may perhaps venture to add my conviction of the importance of a more frequent exchange of opinion on these matters between England and America. In the first place, our knowledge of American institutions is pathetically small; and, secondly, much American knowledge of us is rather external than intimate. If, one day, the Political Science Association could, like your lawyers, hold its annual conference in London, it would, I am sure, receive the warmest of welcomes as a mark of the gratitude we should feel.

HAROLD J. LASKI.

France. The most significant tendencies which the study of political science in France presents today are: (1) centralization in Paris; (2) emphasis upon social observations; (3) the variety of interests and of research; and (4) propensity to popularization.

Centralization is a natural result of our political system. Not only is Paris our governmental and administrative center from which all initiative comes; the indispensable instruments for work are found within her walls. Public and private libraries and collections of archives there are incomparably more numerous and rich than in any

other French city. The specialists there are very numerous and make up, so to speak, a large permanent congress in which the exchange of ideas and of criticism is exceptionally facilitated.

It would be a mistake, however, to consider the provinces inhospitable to intellectual life. The people of the provinces read more than those in Paris; in Paris time is often lacking. They pay more attention to the lecturers who come their way. They carefully collect and assimilate the work of Paris. They have also manifested fruitful initiative. Regionalism has led to many investigations. Local societies have carried on some interesting research. Distances, however, and the scattered means of information are such that it is often difficult to carry very far an investigation which is not purely local or fragmentary without going to Paris or consulting the authorities there. Hence, political studies are necessarily centralized in the capital.

In the second place, our political sciences are clearly tending toward social studies. In this connection a few facts are very significant. Fifty years ago, Émile Boutmy founded the *École des Sciences Politiques*. Under its fruitful stimulus, people began taking interest in political studies, observing, especially, general political phenomena. Twenty or twenty-five years later, the *Musée Social*, the *Collège Libre des Sciences Sociales*, and the *École des Hautes Études Sociales* were founded, one after another. These titles alone will indicate the evolution which was accomplished in this brief time. It is quite possible that it was due partly to fad—to the somewhat passive obedience to a trend of general ideas, a seeking after an attractive title which catches the attention and claims the interest of the public. But still that proves the existence of the tendency in question, the trend or bent of public curiosity.

A third characteristic may be noted in the variety of interests and of research; and this is perhaps the most important. The number of listeners is increasing from day to day. They came first from the instructional staffs of the institutions which I have named. But their crowded ranks have been extended much further, so as to include a vast number of public-spirited seekers who, either by their natural predilection or by some happy chance, have become attached to tasks of this nature. Hence, there has been a very abundant production. Hence, also, sometimes there have been inequalities, weakness, and lack of uniformity. Beside the book of sound scholarship, which is written only after mature reflection, stands the polemic, composed by a person of preconceived ideas; alongside the historical work based on

careful and exact analysis of documents, is the book which was written deliberately in support of a definite proposition. And it is not always easy to differentiate between these. In this mass there is some dross, but there are also not infrequent nuggets of good metal.

The tendency toward popularization is the last characteristic of which I should like to speak. It is an obvious tendency. It is noticeable both in the school and in the press. The research professor is glad to have huge audiences in which the student is drowned by the wave of the general public. The benevolent lecturer, professor, or more or less occasional orator, vies with him in this respect. Paris offers exceptional opportunity for this sort of thing. Some of the institutions named are located at the very doors of our University, barely across the street, as if they had been set up there with the thought of welcoming the overflow from the neighboring lecture-rooms or of satisfying whatever curiosity had not been appeased in them. In this respect, that quarter of Paris which extends from Saint Germain des Prés up to the Montagne Sainte Geneviève presents an aspect which I believe is absolutely unique; during the winter and for a good part of the spring, at all hours of the day, throughout the week, its every corner reëchoes with lectures on all sorts of things and with a richness and variety which it would be difficult to conceive of elsewhere. In the past few years, this activity has been going on in summer—much earlier in the season than formerly—along with the summer courses which are given especially for foreigners.

There is the same variety and the same inclination toward popularizing by means of the printed book. It is true that people still write very learned treatises which, being very serious, and even tedious, are hardly available for the ordinary reader. But the same authors still find time to compose books for everybody, which, though usually shorter and simpler, are not always short, and which answer a very real curiosity, for the public receives them well.

The fact that these lecturers and these authors find auditors and readers is a good augury for our national education. Before the public, our studies take on a color, a similitude of life, which they would never acquire in the solitude and silence of the closet.

Turning to the materials for work, we note that in France they are as abundant as in other countries,—sometimes more so. They are generally sufficiently classified and in reach of the seeker. However, on this point, some gaps are still to be filled. The catalogues of our large libraries are not all published or easy to consult,—for example,

the catalogue of the *Bibliothèque Nationale* is not yet complete. More modest and more specialized collections are often known only to a few and escape the attention of foreigners. I have cited the library of the *Musée Social*. There are others of the same sort. New collections are being established. Among these is the *Bibliothèque du Musée de la Guerre*, which possesses all the documents relating to the history of the war and constitutes a remarkable collection. Our archives are being extended and filled in constantly. Those of the ministry of the colonies have been recently classified.

But libraries and archives offer their treasures especially to the historical sciences, which are only one branch, and naturally not the most vital branch, of political science. In the other branches, we are suffering from the same deficiencies as are felt elsewhere. The seeker has not at hand the exact, dependable complete information which is indispensable for drawing final conclusions from the study of facts. He has to investigate for himself, with difficulty and at great expense, to collect figures, facts, and documents from day to day, more or less at random, in so far as his means will permit. He has no collections in which the facts gather and line up of their own accord, as if automatically. Some periodicals deal with classifications of this sort. Their resources and their means are limited. Sometimes their efforts do not last. So far as I know, the conditions are no better elsewhere. What we need is a strong organization, able to carry on a continual effort,—to collect, day by day, facts, figures, and documents, or at least summaries of the latter and bibliographical data about them. Only with this would the political sciences of contemporary observation be able to come to positive conclusions.

A word about methods of work. What has been said concerning the difficulties of documentation leads me to call attention to the increased care of scholars in this direction. They are making praiseworthy efforts toward documentary information. A result is the tendency toward specialization. The worker is limiting the field of his observations. He is confining himself to a circumscribed zone which he goes over constantly and which he explores in its innermost recesses.

This tendency, however, does not proscribe more pretentious undertakings nor the cultivation of general ideas. And, in our science, we constantly see a clash of the two kinds of minds which make up the learned world—they are perhaps a little more opposed in France, on account of our national characteristics. On the one hand, we see the people who are occupied with passively collecting, classifying,

stating facts. These are the observers. On the other hand, there are those who cannot confront a group of facts without looking for the causes, deducing the results and taking them as a basis, even though it be an unsteady one, for building up the lines at least of a thesis, if not of a whole system. These are the reasoners.

One side works *ad narrandum* and the other *ad probandum*. Each follows his own temperament, in which they are decidedly right, since, if they tried to do otherwise, they would be condemned to sterility. And there would be no harm in this double tendency if the distinction between the two were as clear as it seems at the outset, and if we could house their works in different corners of our libraries. But such is not the case. The two temperaments are often found in the same man, and they clash in the same work. This brings to the reader the serious problem which constantly occurs in all political studies: "Who is the author?" "What is his value?" "What is his estimate worth?" These are difficult questions to answer, for the two temperaments mingle, and clash constantly. They come together in the operation of analysis. The observer calculates more; at least he says so. The reasoner has more mettle; at least he seems to. . . . This problem takes on a peculiar gravity in our largely conjectural sciences, in which we move with difficulty on account of the changing and dim light which we get from exuberant, unequal, and vague information."

MAURICE CAUDEL.

REPORTS OF THE SECOND NATIONAL CONFERENCE ON THE SCIENCE OF POLITICS

HELD AT CHICAGO, ILL., SEPTEMBER 8-12, 1924

INTRODUCTION

The following quotation from an economist is of great significance to the modern student of politics. "There is danger that the natural sciences must always outstrip the social sciences. In the first place, the natural sciences can use the experiment method, and the social sciences have hardly yet devised an adequate substitute. Then again in the natural sciences, the inventor and original thinker is rewarded and honored, but in the social sciences the inventive mind is more or less ostracised and new ideas that touch upon the key problems of modern life, namely, the control of human and economic activities, are at once branded as radical and dangerous." This apparent discrimination against the social sciences is entitled to careful consideration. Is it a necessary difficulty inherent in the very nature of the social disciplines? Or is it due, at least in part, to inadequate and inconclusive methods of social research?

Without attempting to speak for the other social sciences, the writer has but little doubt that much of the hostility encountered by the political pioneer is due to the unscientific character of his conclusions. The announcement of new discoveries by the scholar in material sciences is generally accompanied by a summary of material evidence, practical tests, precise measurements, or actual demonstrations, that afford strong and persuasive evidence of the reality of the discovery. The issue of the validity of the new theory is generally reduced to a question of fact, for the proof or disproof of which objective evidence is available.

Compare this procedure with that used in connection with the announcement of new suggestions, theories and ideas of political science. How many contributions to political thought or to governmental theory have been preceded by a patient, painstaking gathering of all the evidence and facts that might be material in determining the validity of the new discovery? How many even go through the form of striving to ground their theories on a basis of ascertainable facts? In view of the

attendant circumstances it is not even passing strange that new political theories, which frequently encounter existing prejudice and deeply rooted convictions, should be received with either hostility or indifference. But the important question is, is this evil an inherent one?

It is true that this apparent antagonism to new political discoveries has been occasionally relied upon as a moral alibi for the lack of a more aggressive campaign of political research. But is this a fair attitude to assume? Is it not more in the nature of a challenge than an excuse? Does it not point the way to the necessity of placing political research upon a scientific basis of objective fact? Is there any reason to suppose that the truth about government will find a more hostile and belligerent opposition than the truth about biology, chemistry, or physics, when it is accompanied by a body of objective evidence, scientifically arranged?

The unfortunate element in the situation is the painful fact that the pressure of every-day political problems requires the application of new theories before there has been time for appropriate investigation and research. The author does not wish to imply a criticism upon those who, under the stress of modern political needs, have offered what tentative ideas they had, without waiting to check their accuracy through the slow-moving methods of scientific investigation. To have thus withheld one's contribution to the public problems of the hour would frequently have been in clear violation of patriotic duty. Professor Merriam has made a valuable suggestion in this connection. He distinguishes between political prudence and political science. The opinion of public men and of political scholars may be of great value in determining public questions upon which scientific studies are not available. But such opinions, valuable tho they may be, can not be the basis of political science, and it is the business of the latter so to extend and perfect its technique and increase its activities, that more and more of the field now preëmpted by political prudence will be occupied by a science of politics.

The need of placing political science upon a really scientific basis will be obvious to everyone. There is scarcely a phase of the subject that does not offer the most alluring and virgin opportunities. Moreover, these opportunities are of more than academic interest. The results of scientific investigation would be, in many instances, of incalculable value to the efficiency of our governments and to the tremendous interests that they serve.

The real difficulty has been, not in a lack of vision on the part of the profession, nor in any spirit of indifference to the public welfare, but in the lack of scientific technique. Those who have attended the Conferences on the Science of Politics can have no doubts as to the genuine eagerness of the profession to advance scientific methods, nor as to just where the real difficulty lies. The great obstacle to scientific progress is found in the lack of technique and method. The relation of political theory to objective evidence and to the science of statistics is not so obvious as in the material sciences. There may always be some political questions that will elude any effort to reduce them to questions of fact, of objective treatment, or of precise quantitative measurement, but there can be no doubt that much of our political experience is capable of accurate measurement and scientific generalization if we can only find the method.

We need, first, a more penetrating analysis of the various problems of politics in the light of the possible evidence that may be available. This will lead to the process of restating these problems in terms of tentative principles that the student believes to be involved, and which he believes may be capable of objective treatment. Then come the questions of what facts are relevant, what facts are available, how may they be secured, how can they be measured, and how should they be treated to afford the basis for accurate generalization?

The problem is complicated by two factors. Material science may frequently use the method of the controlled experiment in which all the factors have been removed, save those to be observed, and where the process may be repeated at will, until all opportunities for study and observation have been exhausted. Unfortunately, this process is not so available to the student of politics, altho the report of the round table on Politics and Psychology contains some interesting suggestions looking toward controlled experiments in dealing with the problem of investigating changes of opinion. The other factor of real difficulty lies in the fact that much of political research involves a use of the materials of other sciences than our own, with which the political scientist is not equipped to deal, and where the other sciences have made no contribution of particular applicability to our needs.

An example in point is found in the relation of psychology to political science. The personnel problem of public administration, which involves, among other things, the working-out and administering of efficiency tests, and testing out of the tests, requires a working knowledge of psychology's contribution to the technique of mental measurement.

The problem of public opinion, mass psychology, the rôle of suggestion in political propaganda—in fact, the whole field of what might be called the psychology of political behavior—illustrates very nicely the necessity for coöperation in technique and method between the two disciplines involved. It is futile to wait for the psychologists to preëempt the field, or to expect their coöperation, until we have analyzed our problem, and stated to them our specific needs. What is true of the relation of psychology to political research is also true, to a more or less extent, of the science of statistics, as well as of other allied branches of specialized knowledge.

One of the interesting outcomes of the Conference was the almost spontaneous unanimity with which the directors reached the conclusion that every round table needed the presence of both a psychologist and a statistician. The fact that the director of one of the groups was a psychologist of note and that a group of eminent psychologists found it possible to attend the Conference, is a matter of more than passing significance.

It is in the solution of this complex problem of method and technique, involving several points of view, requiring the coöperation of different disciplines, and demanding inventive ingenuity; creative imagination, powers of analysis and synthesis, a wide range of knowledge and practical experience, and originality and resourcefulness, that an exchange of ideas and the stimulus of mutual criticism and suggestion, such as comes out in round table conferences, seem to reach maximum efficiency. For this reason the Conference on the Science of Politics was planned on the round table idea. The one great object was the study and development of a scientific technique for political science. This seemed to call for just the kind of mutual counsel, suggestion and criticism that intensive round table conferences would produce. Consequently the Conference was divided into eight round tables with permanent memberships, and to each group was assigned a special topic of investigation. Each group then spent the week formulating the tentative theories they believed to be involved and working out the methods by which the accuracy of such theories could be scientifically determined by objective evidence. Each round table periodically reported its tentative conclusions at a plenary session of the whole conference. A final report of the week's work of each round table was prepared by the directors and they are published herewith.

From a survey of the work of the Second Conference there emerge four definite impressions that are significant. First, the almost unan-

imous agreement that the process of perfecting a scientific technique of politics will be greatly facilitated by the coöperation of the psychologist and the statistician. This feeling found a definite expression in the unanimous approval voted by the Conference to the specific recommendations of the round table on Politics and Psychology, that courses in statistics and psychology be required as an early part of the advanced training of students of politics. Second, a remarkable demonstration of interest in the problems of the Conference on the part of a group of eminent psychologists who attended the Conference and played a very active part in its deliberations. Third, the Second Conference was marked by definite improvement over the accomplishments of the First Conference. This was due partly to the momentum created by the First Conference, partly to the improvement in the personnel of membership. Practically the entire membership was composed of people who came to work definitely on some problem and there was an absence of the casual visitor and observer. To a large extent the groups took up the work where it had been laid down a year before, without nearly the amount of lost motion, futile maneuverings, and indefinite objectives that necessarily characterized the initial efforts of the opening Conference. Fourth, the feeling that the Conference had a permanent and important place in the development of political science, seemed to be definitely established among all those present.

The writer is prevailed upon to repeat here some remarks made upon another occasion, but which seem apropos. If the reports of the Conference seem to be naive, elementary, and inconclusive, there is no reason for discouragement. One has but to recall how inadequate and naive now seems the simple technique that ushered in the application of scientific method to the material sciences. In a recent address, Dean Slichter of the University of Wisconsin has emphasized this fact and cited the following minutes, abstracted from a record of a meeting of the Royal Society held September 10, 1662.

"It was order'd, at the next meeting Experiments should be made with wires of severall matters of ye same size, silver, copper, iron, etc., to see what weight will breake them; the coratour is Mr. Greene.

"Dr. Goddard made an experiment concerning the force that presseth the aire into lesse dimensions; and it was found, that twelve ounces did contract $1/24$ part of Aire. The quantity of Aire is wanting.

"My Lord Brouncker was desired to send his Glasse to Dr. Goddard, to make further experiments about the force of pressing the aire into less dimensions.

"Dr. Wren was put in mind to prosecute Mr. Rook's observations concerning the motions of the Satellites of Jupiter.

"Dr. Charleton read an Essay of his, concerning the velocity of sounds, direct and reflexe, and was desired to prosecute this matter; and to bring his discourse again next day to bee enter'd.

"Dr. Goddard made the Experiment to show how much aire a man's lungs may hold, by sucking up water into a separate glasse after the lungs have been well emptied of Aire. Severall persons of the Society trying it, some sucked up in one suction about three pintes of water, one six, another eight pintes and three quarters, etc. Here was observed the variety of whistles or tones, which ye water made at the several hights, in falling out of the glasse again.

"Mr. Evelyn's Experiment was brought in of animal engrafting, and in particular of making cock spurs grow on a cock's head."

It is but commonplace to mention that scientific method applied to material sciences has revolutionized the world. Again quoting from Dean Slichter, "Man now knows that disease may be cured, that life may be prolonged, that much human suffering may be prevented. The control over natural processes given by science, the control over human happiness given us by modern medicine, he is now convinced must be matched by a control even over destiny itself. Man has not yet reached this mastery, but he has reached the belief in its possibility. He is no longer willing to bow down to fate or to resign himself to all of the tragic elements in life, as did the ancients; rather he is demanding deliverance through the researches of economic science and through the understanding of history. The World War has taught him that the great power over the processes of nature may be used quite as well for his destruction as for his advancement. The New Philosophy that produces a thousand tons of poison gas in a day and tens of thousands of machines and aeroplanes to discharge it, is not a philosophy that of itself will lead men to better things. . . . The scientific revolution has advanced man further in his control over nature than in his control over himself. When millions of lives may be obliterated by a chemical formula, there is required a subjugation of human selfishness, such as never before was demanded. But poison gases are not the only compounds that threaten society. Modern business methods and the modern system of industrial development, contain poisons and explosives, more destructive, perhaps, than material reagents. If we can establish no control over the selfishness of men, these powers must tend to become more threatening and more ruthless until civilization itself will be in danger."

The need of today is for developing the power-controlling sciences until they equal the efficiency of the power-creating disciplines, to the end that mankind can become the conscious arbiter of its own destiny. We must evolve a system of social control by which reason rather than passion will be the dominating power. This necessity is tragically evidenced by the present status of international affairs. Among the peoples of all the great nations of the world today there seems to be an agonized desire for peace. And yet humanity stands helpless and impotent. The forces that make for war and desolation are scarcely checked in their apparently resistless march. Our civilization is unable to control itself, to realize its ideals, to accomplish its most cherished ends. The only hope seems to lie in the development of the power-controlling sciences, until mankind can devise the means by which its noblest aspirations may prevail. However humble be the present achievements in developing a technique of politics, its importance can not safely be ignored. The hope of the future seems to lie in a continuous and insistent struggle to devise a technique for the power-controlling sciences that will be adequate to the tremendous problems of modern life.

ARNOLD BENNETT HALL,
Chairman.

ROUND TABLE ON POLITICS AND PSYCHOLOGY

THE SIGNIFICANCE OF PSYCHOLOGY FOR THE STUDY OF GOVERNMENT AND CERTAIN SPECIFIC PROBLEMS INVOLVING BOTH PSYCHOLOGY AND POLITICS

1. Purposes of the Round Table. The round table on politics and psychology formulated its objectives in line with those of the conference, which were to discover the technique and the methods by which the study of politics may become a science. Professor Merriam distinguishes between political prudence and political science. By political prudence he means the gathering of opinion, expert opinion if possible, to serve as the basis for intelligent action. By political science, as science, he means the statistical and quantitative analysis of the phenomena of politics so that political action may be based as far as possible on scientific evidence rather than upon personal opinion and judgment.

The study of politics takes its place with economics, sociology, education, psychology, and other social sciences which are in various stages of advancement in scientific technique and method. In this type of

comparison the study of politics is less developed than economics, for example. Education has established itself as a social science with a vast array of technique and method for quantitative analysis. Sociology is one of the less developed of the social sciences in that it has not yet developed much in the way of technique for scrutinizing the causal relations in the field of its subject-matter. Among the social sciences psychology occupies a middle place as judged by its available technique for scientific inquiry.

The different branches of psychology are not equally well developed. Thus, the experimental psychology of the sense organs has a highly developed technique for exact measurement comparable with the technique of the biological sciences, whereas social psychology is the least developed of the psychological branches in this regard. Unfortunately, considering the development of method, it is largely from social psychology that a contribution may be made to the study of politics and since this branch of psychology is one of its youngest, the contribution must necessarily be meager. On the other hand, psychology has developed, perhaps farther than the other social sciences, the statistical and biometric methods for the study of groups. Since the biometric methods are fundamentally the same in their various applications to biological and social data the psychologist can make this type of contribution to the study of politics. His contribution will be partly in his capacity as a biometrician and partly in his capacity as a psychologist. The psychologist can assist in the formulation of social psychological problems of interest to the political scientist, and the biometrician can assist in the formulation of the statistical and experimental controls by which scientific inquiry may be successfully pursued.

2. *What Constitutes a Problem in Social Science?* The first session was devoted to a discussion of what constitutes a scientific problem in the social sciences as distinguished from historical inquiry, philosophical speculation, and the expressions of personal opinion and judgment. This distinction is easily made in the exact sciences, but it is frequently confused in the social sciences where the distinction is not often sharply drawn. Every scientific problem is the search for the relation between two or more variables. Before the problem can even be stated or clearly comprehended, each of the variables must be stated separately. Each variable must be so described that it is clear what is meant by more of it and less of it. If this more-and-less aspect of the variable can not be clearly stated, some other basis must be used for dividing the variable into discrete categories each of which is defined. Thus public opinion

is not a variable because there is no possibility of defining what is meant by much public opinion or by a little public opinion. However, the number of votes cast for or against a proposal is a variable because it has a clear quantitative aspect. Occasionally a factor such as race does not lend itself readily to treatment as a scale with high and low values, but such factors must then be classified into discrete groups so as to make quantitative analysis possible.

Every scientific problem can be stated in the form of the question "What is the relation between A and B?" or "What is the effect of A upon B?" It is a pretty good test of any proposed problem in the social sciences to determine whether it can be phrased in this way. If it can be so stated, it is a bona fide problem. If it can not be so stated, the proposer probably needs to do some more thinking before his problem is ready for scientific inquiry. Then, the units of measurement must be explicitly stated so that another investigator will comprehend it.

When a problem has been stated as above outlined it is ready for the ingenious investigator. The task is then to invent the methods and the technique by which the relation may be established empirically. This phase of the solution of a scientific problem is one which gives unlimited opportunity to scientific ingenuity. The subsequent analysis of the paired observations of the two variables in the problem should be guided by the statistical and biometric methods which constitute essentially a system of logic for the evaluation of mass data.

The several stages in the solution of a scientific problem can be summarized as follows:

1. A felt social need which requires analysis, satisfaction or cure.
2. The phrasing of the need, or perhaps a small part of it, in the form "What is the effect of A upon B?"
3. The definition of the variables A and B, preferably in quantitative terms.
4. The adoption of a unit of measurement for each variable.
5. The experimental arrangement by which paired observations may be obtained for A and B.
6. The statistical analysis of these observations to determine, objectively, the degree of the relation and the nature of the relation between A and B.
7. The interpretation which consists in reading causality into the observed concomitance of the two variables.
8. The formulation of more problems which arise from doubts in the interpretation and from which the cycle repeats itself.

3. *Pre-scientific Studies.* Before quantitative work can be begun in the social sciences it is perhaps characteristic to find a period of speculation and historical inquiry relating to the subject. Out of much study come the hypotheses that can, at a later time, be subjected to quantitative scrutiny. It is frequently possible to discuss these hypotheses gleaned from historical and other informal evidence without seeing the immediate possibility of experimentally verifying them. Such theories, doctrines, and hypotheses break up gradually into groups of more specific questions that may be studied with the quantitative controls of scientific method. This will probably be the case with such questions as the influence of Nordic or Mediterranean nationalities on American civilization. The question can not itself, and in such a form, be subjected to scientific study, but it will in time break up into many specific questions that do lend themselves to rather well-controlled scientific study. For this reason we must be content with the realization that much of the important subject-matter of a social science will necessarily be speculative during the earlier phases of its development, and we must make the attempt so to phrase our speculation that it looks ultimately toward specific and quantitative verification.

4. *Proposed Psychological Problems in the Science of Politics.* In his essays on *Politics and Psychology*, Professor W. H. R. Rivers has suggested a number of problems some of which could probably be attacked with profit even at the present time. One of his suggestions concerns the relative effectiveness of committees for advisory and for executive functions. His guess is that the committee organized for advisory functions is serviceable, whereas the committee which is organized for an executive function is of questionable value. A case study of pooled experience on this problem might yield empirical data of considerable value. The presence of a single dominating figure in a committee and the presence of indifferent committee members and their effect on the committee's work are further problems on which a profitable case study might be made.

Professor Rivers has ventured the assertion that the successful leader is one who makes his appeal primarily to the emotions and not to intelligence. It would seem possible to verify or refute such an hypothesis by the study of many successful and unsuccessful leaders and the relative degree to which they depended on emotional and intellectual appeal for their support.

Another of his many suggestions is contained in the following quotation (page 72): "I have suggested that the social counterpart of the

nightmare is the revolution; and if the effects natural to the experience of social wrongs are not allowed to find expression in such a way as will lead to the recognition of the wrongs and to the measures which follow upon this recognition, there will sooner or later be violent and unregulated all-or-none manifestations comparable with those of the nightmare''. This is a problem in which the historian, political scientist, and the psychologist could coöperate with profit. The study should be made by the case method and the analysis of each case should follow informally a common plan or schedule. It was Professor Rivers' thought that much legislation which is aimed to cure a social wrong accomplishes little more than the palliatory measures of a physician who relieves the symptom without diagnosing its deeper cause. Just as the mental hygiene movement is now giving attention to preventive measures by which mental evil may be anticipated and avoided, so the political scientist should attempt so to diagnose political evil that legislation may be preventive rather than curative in character. This is an informal type of inquiry out of which will come ultimately more specific questions that can be solved by quantitative empirical methods.

5. *Methods for Investigating Changes of Opinion as Expressed by the Ballot.* The projects discussed in the conference divided themselves into two large classes, namely, those which concern the change of opinion and those which concern leadership. The opinions which are recorded in a ballot are probably affected by a number of factors some of which may be experimentally analyzed. The following problems were discussed by the conference:

The effect of reading persuasive material on the ballot. In this type of experiment a ballot would be taken on some question such as prohibition, war, or any issue on which public opinion varies. The subjects in the experiment would then be asked to read persuasive material for the issue, other subjects would be asked to read persuasive material against the issue. The effect of the reading would be ascertained by a second ballot.

The effect on the voter of announcing the majority opinion. In this experiment a ballot would be taken on any suitable issue after which the vote of the majority in the group is announced. A second ballot is then taken in order to determine this effect.

The effect of announcing the opinion of alleged experts on the ballot. This is again similar to the previous experiment except that between the first and second ballot is inserted an announcement of the opinions of experts to determine the effect on the balloting.

The relative effect of oral and written presentation of persuasive material. This type of experiment can be arranged according to the same general plan as the previous ones but it is more difficult to control so that the conditions can be reproduced by other experimenters.

Such experiments can be varied by introducing material which is neutral as far as the subjects in the experiment are concerned, but which has in reality a calculated effect on the subjects. Thus in an experiment of the first type the subjects were asked to ballot on their attitude toward war which was phrased in a number of statements. The reading material introduced between the first and second ballot related to children and the readers probably assumed this material to be neutral as far as the peace and war proposals were concerned. It was found experimentally, however, that the effect was to increase the pacifistic opinions as shown on the second ballot. We have here in miniature and in experimental form the effect of propaganda in which opinion is influenced by presentations that are thought of as neutral by the readers but which are intended to have a definite effect on their opinions. This type of experimentation is very suggestive for further work of a similar kind.

The experimental measurement of nationality, race, sex, schooling, age, economic status, occupation, religion, and other factors as determinants of opinion. Such experiments would have for their object the determination of group differences in opinion on stated issues.

The effect of the factors listed above and others on the willingness to change opinion on public issues. This type of experimentation could be carried out by submitting to people a list of proposals for changes in the established order with or without some reasons for the proposed changes. It would be illuminating to study the group differences in willingness to consider the feasibility of changes in the established order. It would probably be found that some of the groups as defined above would be so set in their opinions that they would not even consider the proposals as even possible while other groups would be more open-minded in expressing their willingness to consider revisions in the customary social habits and traditions.

A parallel experimental study could be made of the group differences in the effect of different types of material on changes in opinion. Such studies might reveal that certain groups are more easily persuaded to change their opinions than other groups. In order that such experimentation may be at all trustworthy it would be necessary sooner or later to carry out the experiments on a sufficient range of issues to establish general principles.

Experiments could be carried out by asking the subjects to assign their reasons for voting as they do on the first ballot. The persuasive reading material would then be presented. On the second ballot there would be changes of opinion by some of the subjects. It would then be possible to determine empirically whether those who assign certain typical reasons are more or less easily persuaded to modify them than those who give other types of reason. If such findings should reveal any general principles they would be useful in predicting the changeability of opinion in terms of the reasons assigned for them.

The ballots should be arranged so that the voter expresses not only what his opinion is but also in some manner the strength of his conviction in voting. If the subject is prohibition the voters might check various statements that they endorse. These statements should include extreme temperance statements, statements favoring a moderate government control, and statements endorsing complete license. The relative strength of the conviction of the voter could then be ascertained in his ballot and these relative degrees of conviction could be studied with reference to the variables above mentioned.

A variation of these experiments would be to ascertain the effect of secret and open ballots on the total vote. The experiment might be arranged either in the form of a "yes" and "no" ballot or in the form of graded statements which the subjects endorse or refuse. Still another factor is the comprehension of the reading material. Its effect on the final ballot might be ascertained by comparing the graded ballot with the degree of comprehension of the reading matter, which should of course be determined by objective tests.

An important qualitative study would be the psychological analysis of the personalities that react negatively to the suggestions in the reading material. It was found in the preliminary experiments of Mr. Sturgis that some of the subjects modified their voting in a direction opposite to that of the reading material which was inserted between the first and second ballots. If negative suggestibility can be experimentally verified as a characteristic of some individuals it should be an important consideration in any problem affecting the change of personal opinion. It would be rather easy to determine experimentally the relation between the intelligence of the subjects and their changeability in voting on several issues with two ballots and persuasive material between the two ballots.

A more or less qualitative inquiry would be a study of the relative effectiveness of emotional, dogmatic, and logical appeals on the chang-

ing of personal opinion. The effectiveness of each of these appeals may in turn be studied for each of the groups defined by sex, nationality, age, education, religion, and race. It is quite possible that these different types of appeal may be entirely different in their effectiveness for these different groups. Such studies cannot at present be reduced to an entirely quantitative form. However, enough can be done experimentally even with variables of this kind to remove the problem from pure speculation to the realm of empirical study.

6. *Plan for the Study of the Distribution of Opinion in any Given Population.* Professor Allport presented in outline form a plan for the study of the distribution of opinion in any given population. If prohibition be the issue chosen for experimental study the solution of the issue would be represented by a series of statements ranging from extreme abolition on the one hand to extreme individual license on the other hand. The statements numbering a dozen, more or less, would be arranged on a scale at the center of which would be a statement representing a middle ground, more or less neutral and not colored by prejudice or violence of opinion. It would then be possible to obtain a graded ballot from a given population so that the number of individuals in each population sanctioning each statement could be represented graphically. The highest ordinate on such a chart would represent the general tendency of public opinion in the given population. The shape of the distribution chart would itself be of considerable scientific interest. If the shape of that curve were studied before and after the presentation of persuasive material leaning toward one extreme, the effect of the reading could be ascertained in the modified shape of the distribution of opinion on the issue. It could then be ascertained whether it is the people in the general middle range or the people at the extremes who can be persuaded to shift their opinions by any specified amount as a result of the persuasive reading.

One of the fundamental problems in the study of distribution of public opinion would be the determination of the units of measurement that are to be used on the base line of the graphical representation. There is a logical analogy here with the steps in the educational scales that have been developed for use in measuring proficiency in handwriting and in other psychological and educational performances. It might be possible to use the principle of just noticeable differences as the unit of measurement by which the several statements that are used in the scale may be located at numerically assigned points on the scale.

7. *Study of the Relative Effectiveness of Different Methods of Propaganda.* Perhaps one of the most interesting of the larger psychological problems in the science of politics is the analysis of the methods that have proved successful in propaganda, including war propaganda, drives for benevolent causes, and the propaganda by which large corporations have successfully changed public opinion about them. The first step in such an inquiry would probably be to collect a considerable number of descriptions of successful and unsuccessful propaganda methods. The specific instances should be collected so that the material is historically accurate. A free and informal psychological analysis may then be made of the methods that seem to be successful and out of such a study there should come a number of psychological hypotheses regarding effective propaganda methods. Some of these principles might later be subjected to empirical verification by controlled experiments. Such a study would make interesting reading and it offers the opportunity for ingenuity in extracting the common psychological principles. Although such studies are not now quantitative there must first be some hypotheses or problems before any definite experimentation can be begun.

A slightly more specific study would be to analyze the propaganda by which public opinion is stirred up to war and also the rate at which the war hatred returns to a normal attitude between the two countries. The former problem is the more difficult although it can be studied qualitatively. The rate at which two warring countries return to a normal attitude toward each other after peace has been declared can be studied in a roughly quantitative way. For example, after peace is declared an analysis could be made of the number of articles or editorials, or the amount of editorial space, given to antagonistic and to friendly comment about the other nation. Such tabulations could be made for weekly or monthly periods. This would show at least roughly the rate at which the return to normal international attitudes is approached. If the shapes of these curves should prove to be similar for several modern wars some illuminating psychological generalizations might be drawn from them.

8. *Possible Significance of the Study of Modern Methods of Publicity.* It was proposed that the scientific study of propaganda might be facilitated by a consideration of the methods that are used in advertising. Since advertising has been subjected to quantitative experimental study it might be possible to transfer tentatively some of the psychological principles to the field of politics in the experimental study of propaganda.

Such a consideration of the scientific study of advertising methods might at least yield hypotheses for experimental inquiry in the field of politics. A more specific project of this kind would be the study of the methods of newspaper publicity that have been employed by successful and unsuccessful candidates for political office.

It has been suggested that the votes on constitutional amendments in some states tend to correlate with each other when presented simultaneously. If public opinion is against one of the amendments it tends to draw a negative vote on any other issue which is presented at the same time. This would seem to be a rather simple problem to analyze if the data can be provided. It would consist in obtaining the inter-correlation of the votes on several simultaneously presented amendments. If these correlations are positive and clearly above the limits of chance these indices would practically prove that pronounced public judgment on one issue may drag with it the same judgment on other issues presented at the same time even though the several issues do not necessarily have anything in common.

In an entirely different experimental setting, but involving nevertheless the same fundamental problem of conditions under which public opinion can be modified, was the suggestion that the applause in a theater be loaded at different points in the play and that the suggestiveness of the audience be studied under these conditions. It would probably be found that the audience will take the suggestion of the loaded applause more readily at some points than at others. The results might be analyzed with the purpose of discovering the psychological principles by which the points of applause might be predicted. Such principles, if experimentally verified so as to establish their universality, would be of great commercial, political, and psychological interest. These experimental findings could be compared with the practices of loading the applause and popular approval at political conventions.

9. *Study of the Methods of Stimulating Voting.* Of more immediate significance are the studies of methods for stimulating voting. In these studies the end result which is measurable is the number of people who turn out to register and to vote. The independent factors which partly determine this end result include such measurable facts as the giving of information about the time and place of registration and voting, the necessity for registration, information about absent-voting laws, information about ballots and the details of voting, mailing persuasive literature, having competitions between small areas or groups for larger registration. The results would be measured in terms of the registration and the votes.

An experimental study might be made by means of a survey to determine the relation between the intensity of people's opinions and the percentage who go to the polls.

It might be possible to study the effects of different sorts of newspaper publicity on elections. The election results might be studied in relation to such factors as amount of newspaper space for and against, number of papers for and against as well as their circulation, amount of logical and of emotional writing, and other factors. These studies would be complicated by the fact that newspapers sometimes support the candidate or the issue which in their opinion will win the election in order to enhance their own prestige. This effect would have to be ruled out in some experimental procedure before the conclusions could be of fundamental significance.

It was suggested that straw votes be taken on a selected group of individuals at intervals of three months between March and November in order to ascertain the changeability of public opinion in specified voting groups.

Professor Shephard has recently published an article on the relation between the two-party system and the coöperative forms of sports. It is suggestive of the application of scientific method to social and political phenomena.

10. *Survey of Classical and Modern Political Writers with Reference to Psychological Principles.* One of the informal and qualitative studies of great importance in the scientific work toward a psychological understanding of politics would be a careful survey of the classical and modern writers on politics with special reference to the psychological principles which they either imply or state explicitly. Such a study should include a wide range of writers and the effort should be made to state the psychological generalizations that are involved. By comparing the generalizations so derived many hypotheses would appear that could be subjected to experimental or historical inquiry to establish their validity. This topic may be suggested as especially suitable for a seminar in the psychology of politics.

11. *Various Projects for the Psychological Study of Leadership.* The subject of leadership and its psychological analysis was the second large subject considered by the round table. A sub-committee made the following recommendations regarding projects for the psychological study of leadership:

1. The analysis of political leaders of the past in order to set up a provisional list of traits that characterize them as leaders.

2. The analysis of living leaders and non leaders by means of a personality questionnaire similar to that of Professor Allport of Syracuse University.

3. The analysis of thirty living leaders of recognized prominence by means of mental and physical examinations in which should be included various psychological and physiological tests that may be regarded as having possible significance.

4. The study of the relation of leadership in the adolescent age to leadership in the adult years.

5. The study of the academic associations of men who attained leadership later in life.

6. The study of the relation between leadership in childhood and the same trait in the adolescent age.

7. Exploratory studies of an intensive order of a small group of persons in order to determine if possible the psychological and environmental factors that make a leader.

Professor Yoakum suggested the possibility of what would amount to a job analysis of the political leader. He suggested a possible study of precinct leaders by means of a questionnaire or schedule which would bring out their essential characteristics. Three types of procedure might be used in case studies, namely: (1) the large group method in which several thousand precinct leaders would be studied by a schedule designed to get extensive information; (2) the selection of a sample of leaders from different types of groups; (3) the intensive study of five or six local political leaders.

The many ideas that appeared during the conference will probably be suggestive of the lines along which the problems of political science, or small parts of them, may be isolated for objective study. The contribution of the conference consists mainly in pointing out further the lines of progress in which statistical methods and psychological methods may be applied with profit in the scientific study of politics. Even if only a few of these suggestions should lead to studies of a scientific order the conference will have been distinctly worth while.

12. *Recommendation that Courses in Statistics and Psychology be Established.* In view of the fact that the students who are now majoring in political science are preparing themselves for productive work, and since the study of statistical theory and of psychology are essential for the mastery of the working tools by which the problems of the conference may be solved, recommendations were submitted to the general conference regarding the encouragement of students of political science to study these two subjects. The recommendations were as follows:

In order to provide courses in statistics and psychology which are suitable for students of government and for students in the other social sciences, and in order to secure proper recognition for such courses, it seems wise to address a communication to three organizations which can contribute in various ways to the end in view. It is, therefore, recommended that a communication be sent to the American Political Science Association, one to the Social Science Research Council, and one to the American Psychological Association. The three formulas recommended for these three associations are as follows:

First, to the American Political Science Association,—It is recommended that suitable courses in psychology and statistics be provided and required as parts of the early and advanced training of students in government.

Second, to the Social Science Research Council,—It is recommended that suitable courses in psychology and statistics be a part of the requirement imposed upon all students who are carrying on studies in the social sciences. A consideration of the type of courses in the subjects mentioned would be a suitable topic for a special committee to be created by the Social Science Research Council. To this end it is recommended that the American Psychological Association be invited to appoint representatives to a joint committee which shall include also representatives from the various social sciences. The joint committee thus constituted shall take up in detail the content and administration of courses which may properly be recommended as fundamental to the study of all the social sciences.

Third, to the American Psychological Association,—It is recommended in view of the wide-spread demand for suitable courses in psychology and statistics to serve as the foundation for studies in the social sciences, that the American Psychological Association appoint a committee to take this matter into consideration and coöperate with representatives of the social sciences to the end that a complete definition be arrived at of the topics and method of treatment of psychology suitable for students of the social sciences.

L. L. THURSTONE.

ROUND TABLE ON POLITICAL STATISTICS

THE MEASUREMENT OF PUBLIC OPINION

The round table on political statistics at the Chicago Conference dealt with topics of a different nature from those considered by the round table on the same subject the previous year at Madison. It was impossible, therefore, for this round table to begin where its predecessor left off. While its predecessor's work was continued by the round table on municipal administration, the round table on political statistics made a fresh beginning.

1. *The Meaning of Public Opinion.* Before even a beginning could be made, it was necessary to come to some agreement concerning the meaning of terms. Some members of the round table believed that there is no such thing as public opinion; others believed in its existence but doubted their ability to define it with sufficient precision for scientific purposes. Others again, more sanguine or perhaps more credulous, believed that the term could be defined, but were of different minds concerning the kind of definition that should be adopted. To reconcile these differences, it was decided first to consider the nature of opinion in general in the hope that a common understanding of the meaning of public opinion would emerge from the discussion.

To this end each member of the round table was asked to prepare a definition of the term "opinion." From these definitions nine questions concerning the meaning of the term were derived. After further discussion, it was decided that for the purposes of the problem before this round table the essential points in a definition of opinion could be narrowed to three: (1) opinion need not be the result of a rational process; (2) it need not include an awareness of choice; and (3) it must be sufficiently clear or definite to create a disposition to act upon it under favorable circumstances.

On the question when is opinion public, the round table was unable to come to a definite conclusion. The main points of disagreement were as follows: (1) whether there is and must of necessity be a single public opinion, or whether there may be a number of public opinions upon a given question; (2) whether opinion is public because of the subject-matter to which it relates or of the kind of persons who hold it; (3) what part of the public must concur in an opinion to make it public opinion; and (4) must there be acquiescence by those who do not concur. After some discussion of these points, it was agreed that an exact definition of public opinion might not be needed until after the technical problem

of measuring the opinions of the individual members of the public had been disposed of. It was decided therefore that the round table might well proceed to consider the problem of measuring opinion, especially that relating to political matters, and avoid the use of the term public opinion, if possible.

2. *Methods of Measuring Opinion.* Twenty-three methods by which opinion might be measured were suggested for consideration. These methods were arranged under four heads and then discussed, first by four committees of the round table and afterward by the round table as a whole. The first group of methods included all those based on the study of official election returns. The second group included those utilizing fair samples of the bodies of opinion to be measured, collected deliberately but unofficially. The third group included all methods utilizing voluntary or spontaneous expressions of opinion. The fourth included those which utilize the data that may be derived from the proceedings of legislative bodies and the acts of public officers of all kinds, possessing any representative character.

3. *Direct Votes Upon Measures and Candidates.* The most comprehensive as well as the most accurate method by which opinions upon political questions are measured, is direct voting at public elections upon measures or candidates. It is the only method which has been used in such a way as to furnish records readily available for statistical analysis, and it is the only one which considers the whole adult population. However, even voting upon measures, which obviously is a more exact indication of opinion upon public questions than voting upon candidates, has certain definite limitations: For example, a categorical answer must be given to questions which are often complex, and thus a misleading simplicity is obtained. Moreover, it fails to measure the intensity of opinions, and takes no account of the opinions, if any, of those who do not vote. Two definite proposals for further study of the problems involved in this method of measuring opinion were agreed upon: (1) the supplementing of the study made by Professor Merriam and Dr. Gosnell concerning the causes of nonvoting by a somewhat similar study of the reasons for voting; and (2) the further investigation of the comparative proportions of those entitled to vote who vote at special elections upon referendum proposals, whether constitutional or statutory, and at general elections, with a view to ascertaining the amount and causes of the difference, if any, and the significance of such differences.

4. *The Questionnaire as a Method of Measuring Opinion.* The second group of methods for measuring opinion includes particularly the taking of straw votes and the use of questionnaires. Practically all the discussion of this method was devoted to the problems connected with the use of the questionnaire: The over-representation of the interested, the literate and the well-to-do, the fairness of phrasing, the possibility of plural voting, the presence or absence of discussion, the maturity of the answer, the durability of the opinions so measured, the desirability of secrecy. Considering all these difficulties, certain members of the round table endeavored to frame a model questionnaire suitable for measuring opinion on a problem of contemporary interest. It is hoped that these members will be able to carry on such experiments with this questionnaire as will more accurately determine the usefulness of this method.

5. *Propagandist Organizations and Spontaneous Expression.* The third group of methods dealt with what may be termed unsolicited or spontaneous expressions of opinions. Among these are public hearings, voluntary party enrollment, lobbying, petitions, circulation of the press, public meetings, editorials, campaign contributions, speeches of public men, private research groups, letters to the press, the behavior of crowds, and propagandist organizations. It was found that certain of these, for example, letters to the press and private research groups, are of little importance, as being at best incapable of exact measurement. Others, as campaign contributions, although they may be of more significance as a means of measuring opinion, are not yet capable of very meaningful measurement. Still others, such as public hearings and the extent of the circulation of the press, while considered to be of considerable significance and capable of more or less accurate measurement, were not considered very carefully because of lack of time. It was deemed advisable to give nearly all the available time to the consideration of propagandist organizations. Their rapidity of growth, and their distribution, while susceptible of measurement, are of varying significance.

Membership lists, if accurate, and if made public, are of considerable importance. The number and character of the activities of such organizations, whether active or quiescent, whether, for example, they have speakers' bureaus, hold public meetings, issue pamphlets, and the like, may indicate with some exactness the extent to which an organization is really an index of opinion, an index, that is, not merely of the number of persons holding certain opinions, but of the intensity with which they hold them. Closely related to these questions is that of the extent to

which the activities of propagandist organizations stimulate their members to individual expressions of opinion through public or private letters, telegrams, petitions, etc. A pattern of the nature and activities of various propagandist organizations might perhaps be worked out so that it would furnish graphically and with a fair measure of exactness an indication of the extent to which these organizations are really to be relied upon in determining the extent and intensity of opinion. The round table was unanimously of the opinion that the public should know the facts concerning the membership and finances of all organizations designed to influence opinion on public questions.

6. *The Analysis of Opinion of Official Representatives.* The fourth and last group of methods under consideration for the measurement of opinions included those dependent upon an analysis of the opinions of official representatives of the public. These methods could utilize such material as the resolutions and other public acts of legislative bodies, recommendations and veto messages of chief executives, decisions of courts and administrative tribunals on questions of public policy, and the platforms of political parties. It was decided that at present a general answer to the question, "To what extent do these acts conform to the opinions of the electorate?" is impossible. Many people believe that the chief executive more correctly speaks for his constituency than does the legislature. Yet one of the tests of the accuracy of the executive's statement of what the people desire is the reception of his recommendations by the legislative body. It seemed advisable, then, that in developing these methods, a beginning be made with the legislative branch of the government. One problem for such a method might well be the determination, if possible, of the relation between the attitude of representatives toward measures in legislative bodies and the important characteristics and interests of the communities which they represent. This would involve detailed analysis of the environmental factors of all kinds, economic, social, racial, religious, which influence the opinions of individuals, a laborious undertaking, but one promising the development of a technique which would enable the political scientist, not merely to measure opinion when duly formed, but even to prognosticate it before it is formed.

At this point in its deliberation the round table was forced to adjourn by the expiration of its time; and the members separated in the belief that a beginning had been made from which the next round table on political statistics could make substantial progress.

A. N. HOLCOMBE.

ROUND TABLE ON NOMINATING METHODS

THE DEVELOPMENT OF A TECHNIQUE FOR TESTING THE USEFULNESS
OF NOMINATING METHODS

At the close of the first National Conference on the Science of Politics in 1923, the round table on nominating methods set for itself the task of developing methods for applying the nine tests agreed upon as probably useful in judging nominating systems. To this end each test was assigned to a member of the round table for detailed consideration. For a variety of reasons studies of the following items of the program were not completed: (1) The type of candidate; (2) the effect on the party system; (3) the effect on continuity in office; (4) the effect on majority rule. The first of these was assigned to a member of the 1924 round table, Mr. Frank Paddock, for a tentative report, which was received and discussed, with the result that this test, with the other three named above, was reassigned for research during the coming year.

1. *Influence of the Press under Different Nominating Systems.* While no formal or complete report was received concerning the relative extent to which the press dominates nominations under different methods, Miss Alma Sickler presented the results of an experimental study she had made with respect to the *Indianapolis News*, reputed to be an influence in Indiana politics. Miss Sickler had examined the files of this paper over a period of nearly thirty years to discover how frequently the success or failure of candidates in primary or convention coincided with support or opposition by the *News*. A number of questions were raised concerning the methods used, the most important of which concerned the relation between the circulation of a newspaper and its influences; what evidence proved the support or opposition of candidates by a newspaper; the importance of other factors in influencing elections. In view of the enormous labor involved in making a complete study involving many newspapers over the whole country some doubt was expressed as to whether further investigation along this line would be worth while. Nevertheless the round table was unwilling to abandon the problem, and with the report as a working basis the experiment is to be carried on more extensively in Indiana (Miss Sickler), Michigan (Mr. Reed), and Pennsylvania (Mr. Salter), and the statistical problems are to be referred by the chairman to some competent person for solution.

2. *The Effect of Different Nominating Methods on Public Interest.* Miss Sickler also presented a report on the methods of determining the

effect of various nominating systems upon public interest. The report suggested that the interest to be measured is not only the interest in the nomination, but also the interest in the ensuing election, and that the evidences of interest would be the amount and character of public discussion and the amount of participation in the nominating and elective processes. In the latter, voting statistics would form the basis of comparison and account would have to be taken of such factors as the difference between rural and urban communities, partisan as contrasted with the nonpartisan situations, the existence of good transportation facilities, organized efforts to bring out the voters on election day, and the number of actual contests in the election. The amount of discussion might be judged by the number of public meetings; the amount of space in newspapers devoted to political news, political editorials, advertising, and communications from readers; the number of political clubs and political social events, etc. The report was discussed and is to be mimeographed and distributed to the members of the round table for further consideration and criticism in anticipation of next year's meeting.

3. *Relation Between Different Nominating Methods and Political Corruption.* Mr. Kirk H. Porter presented a report on the relation between political corruption and the types of nominating system. This report emphasized the difficulty of defining corruption, of comparing the forms of corruption common under the convention system with those prevalent under the primary system, of getting reliable information, and of reducing corruption to any kind of common denominator. Its general conclusion was that it would be practically impossible to formulate a scientific or objective method of studying corruption. The discussion of the report revealed a difference of opinion about accepting this conclusion, and it was finally agreed that the chairman was to make further experiments with this test in California, where a considerable amount of information on the subject is available.

4. *Effect of Different Nominating Methods upon the Character of the Campaign.* Mr. John Alley presented his views as to the effect of the direct primary upon the character of the campaign. He had not found it possible during the year to formulate a method for objective study of the effect on campaign methods of different nominating systems. The discussion of this report revealed the difficulties of treating this subject scientifically, but it was agreed that the test was perhaps an important one which should be taken under consideration at some future time.

5. *Effect of Different Nominating Methods upon the Cost of Nominations.* Mr. Clarence A. Berdahl presented a practically complete and final report upon the methods of discovering and comparing the costs of nomination under different systems. In his report he suggested that the scope of any such investigation would include the cost not only to candidates and to party organization, but also to private individuals and organizations and to the state. He came to some conclusion regarding the time limits of campaigns and the kind of things which may be regarded as included in the term costs; indicated the kind of information necessary, the sources of such information, the methods of correcting data, the means of securing further information; and made an essay toward a bibliography of the subject. The report was discussed in detail and such questions were raised as whether registration costs should be considered as part of the cost of a primary election; whether separate studies should be made of legislative, executive and judicial nominations, or of local, state and national nominations; and whether the cost to private organizations or to the party organizations was really pertinent in comparison of various systems. The report is to be mimeographed and sent to the members of the Conference for their suggestions and it is expected that it may be perfected and made available to students before the next meeting of the Conference.

6. *Methods for Investigating the Effect of Nonpartisan Nominations and Elections.* A new venture for the round table was the consideration and criticism, at the request of Mr. J. T. Salter, of a plan for investigating the effects of nonpartisan nomination and election of officers in third-class cities in Pennsylvania. This project was somewhat outside the scope of the round table's work. However, it seemed to the members that when an investigator had a definite project and was encountering difficulties in working it out, perhaps no greater service could be performed by the Conference than to let him present his problem and secure what assistance he could from the other members.

7. *Summary of the Work of the Round Table.* The work of the round table on its various tests may be summarized as follows:

I. The type of candidate produced,—continued as an assignment to Mr. Waldo Schumacher, of Syracuse University, who is asked to present a report which may be mimeographed and distributed to the members of the group for consideration.

II. The cost of nominations,—passed the preliminary state and on the basis of Mr. Berdahl's report is to be criticised and perfected in the coming year.

III. The effect on the party system,—assigned to Mr. C. A. Berdahl, of the University of Illinois, for study and report at the next meeting.

IV. The effect on public interest,—continued as an assignment to Miss Alma Sickler, of Indianapolis, Indiana, and her preliminary report is to be mimeographed and submitted to the members for examination.

V. The effect on corruption,—offered some special difficulties and is to be experimented with as far as possible by the chairman.

VI. The effect on continuity in office,—assigned last year to Mr. J. F. Scott, of Columbia University, and is to be continued as a problem for him if he is able to undertake it.

VII. The effect on majority control,—assigned to Miss Louise Overacker, of Wilson College, for study and report at the next meeting.

VIII. The extent to which press domination is fostered,—to be studied by different members of the round table on the basis of Miss Sickler's preliminary report.

IX. The effect on campaign methods,—assigned to Mr. Kirk H. Porter, University of Iowa, for study and report at the next meeting.

8. *Recommendation of the Round Table.* The round table on nominating methods recommends that at the next conference a competent psychologist and a trained statistician be assigned to each round table. The experience this year suggests that much greater progress would have been made if some of the technical problems could have been quickly and immediately solved instead of having to be either laid aside or dealt with in an amateurish way.

The round table is under special obligation to Miss Louise Overacker who acted as secretary.

VICTOR J. WEST.

ROUND TABLE ON LEGISLATION

THE DEVELOPMENT OF A METHOD FOR INVESTIGATING LEGISLATIVE LEADERSHIP

1. *Scope and Nature of the Problem.* The round table began its work with a number of negative agreements. It was first agreed that the group would not concern itself with the type, quality or motives of leadership, as these questions would involve ethical or philosophical considerations with which the members felt themselves incompetent to deal. Likewise all questions of the elements of personality, character, and conduct that go to make effective leadership possible were elimi-

nated, as falling more directly within the fields assigned to the two groups that are dealing with psychology and public opinion respectively.

An agreement was then reached that the work of the week was to be concentrated on two major problems: First, determination of methods by which the amount of effective legislative leadership (1) within the legislature, (2) by the executive, and (3) by forces outside the legislature, could be ascertained for any one session; second, to devise methods by which the influence of the different factors affecting the existence of legislative leadership could be objectively determined.

2. *Proposed Test to Determine the Existence of Effective Leadership within the Legislature.* The test of the existence of effective legislative leadership was believed to be the coöperation of the two houses and the governor to a sufficient degree to produce legislation. From this it followed that irreconciled opposition between the houses, such as would deadlock the legislature was evidence of the lack of leadership and that the enactment of relatively controversial measures was evidence of the existence of effective leadership. It was recognized that the term "relatively controversial" was indefinite, but nevertheless a necessary concept in determining the existence of leadership. It was thought that in applying this term the five following factors should be kept in mind: (1) Closeness of the vote; (2) party vote; (3) minority committee report; (4) amount of debate; (5) adoption of substantive amendments.¹

By determining the number of times (and the length of each) a legislature was deadlocked and the number of controversial measures that were enacted in a given number of sessions, it would be possible to ascertain the average amount of leadership. By comparing the amount of leadership of any particular session with the average, it would be possible to estimate what effect, if any, the factors peculiar to that particular session, but absent from the other sessions, had had upon the matter of leadership.

¹ Mr. Briggs reported the results of an examination he had made of the problem of fluctuations in legislative policy over a period of ten years in the state of Iowa. This investigation showed that in 1913 two measures were passed and later amended, in 1915 no changes were made, in 1917 there were ten changes, in 1919 no changes, in 1921 four, and in 1923 five, making a total of twenty-one changes over a period of ten years and six regular legislative sessions. The changes made were without exception, merely technical changes, usually for the purpose of correcting errors in bill drafting. The conclusion to be drawn in this instance was, therefore, that so far as this study is concerned, the results obtained were negative. An absence of leadership was not indicated although, of course, neither was the existence of leadership demonstrated.

3. *Proposed Method for Determining the Effect of Different Types of Legislative Organization upon Leadership.* It was thought that the types of organization that were worth considering in this respect were the following: (1) Term of office of members of legislature and the basis of representation; (2) joint committees; (3) steering committees; (4) sifting committees; (5) conference committees; (6) rules committee; (7) floor leader; (8) temporary chairman of the committee of the whole.

It was suggested that the following methods be pursued in determining the effect of the different types of organization upon leadership: (1) tabulate the facts regarding the establishment and development of the different types of organization; (2) in the case of committees and floor leaders tabulate the times they have been overruled by the legislature and the times they have not been; (3) check the above observations by personal observation and field work; (4) correlate the above findings with the evidence of the existence of leadership. If, for example, it is found that the system of joint committees was established at a given date, that the recommendation of the joint committee was generally followed, and if it was found that the average amount of effective leadership perceptibly increased about that time, there would be some evidence of the influence of the joint committee system upon legislative leadership. It is believed that some such process will provide an objective method of measuring the value of these various types of legislative organization as contributing to effective leadership.

The question of determining the effect of the two-party system as distinguished from the one-party system upon legislative leadership was then considered. The following study was suggested: An investigation over a period of years of party organization in several states classified as two or one-party states, the results to be correlated with the results of the study of the amount of legislative leadership in these states over the same period. Such a study should take into account such variable but vital factors as factional differences, conflicts between rural and urban constituents, and similar circumstances.

4. *Evidence as to the Existence of Executive Leadership.* There was general agreement that the evidence of executive leadership was to be found in checking up on specific legislative recommendations of the governor to see what number were enacted, what number were voted upon but defeated, and what number never received any legislative consideration. In this connection the measure should be classified into such classes as the following: (1) measures for which the governor has drafted bills; (2) measures in which the governor has made unusual executive efforts; (3) measures which the governor has only nominally

supported. An average of the number of measures of each class enacted, defeated, or ignored over a period of years would establish an average as a basis of comparison. The above agreement was reached largely upon the recommendation of Mr. Stewart who led in this discussion.

5. *Proposed Methods for Determining the Effect of Various Factors upon the Existence of Executive Leadership.* The following study of the veto was suggested: (1) Note the number of vetoes overridden; (2) note the effect of the veto on the attitude of individual members (how many voted differently after the veto than before); (3) note the peculiarities, customs and traditions of a state regarding the veto (for example, in Iowa there have been only 68 vetoes since 1868, there apparently being a strong tradition against the use of the veto). By comparing the results of the above tabulations with the average amount of executive leadership in the state over the same period of years, it will be possible to determine whether there is any striking correlation between the use of the veto power and the amount of legislative leadership. Dr. Maxson led the discussion on the veto power.

The following methods were suggested for studying the effect of party leadership: (1) determine the number of members of the governor's party who support measures specifically advocated by the governor. A distinction should be made between one and two-party states in this connection and in case of one-party states any well defined factionalism should be noted. (2) Determine where party caucus has supported the governor's program, noting how many party members followed the caucus action; (3) check party platforms and determine whether there is any correlation between the platform and the governor's measures which succeed. (It should be noted in this connection that the method of making the platform in some states is subject to the governor's domination, in which case the results would lose their significance) (4) check one-party states as against two-party states and compare the relative amounts of executive leadership.

The discussion of executive leadership through public appeal was led by Miss Rocca. The following line of investigation was recommended: (1) Check up instances where the governor has appealed to the public in behalf of legislative measures in regard to which the legislature has opposed him; (2) check up instances of a governor's appeal to defeat or elect legislative members because of their attitude toward his policy; (3) check up instances in which the governor has used the referendum to defeat, or the initiative to enact, measures in regard to which the legislature has opposed him. The data obtained by the above

methods should then be compared with the average amount of executive leadership during the period covered, and any significant correlation noted.

6. *Proposed Methods for Determining the Existence of Extra-Legislative Leadership.* It was suggested that the following studies would throw light upon the existence of extra-legislative leadership: (1) enumerate the total number of controversial bills drafted at the instance of private organizations, noting the number of cases in which such bills were supported by an active agent upon the ground: Note also the number finally enacted; (2) compare the total number of controversial measures enacted with (a) the number of such measures drafted at the instance of private organizations, (b) the number of such measures introduced at the instance of private organizations, (c) the number of such measures actively advocated by a representative of private organizations, and (d) the number of such measures actively opposed by private organizations.

There was general doubt as to the effectiveness of any method yet conceived for measuring the effect of the press on legislation. The difficulties in the way were thought to be the following: (1) But few state issues are discussed in the papers; (2) few papers of general circulation actively support or oppose specific state issues; (3) the instances in which papers did support or oppose specific state issues would be too small in number to afford the basis of any valuable generalization. It was thought that perhaps in the initiative and referendum states the papers might pay more attention to state issues and that the basis of a study might there be laid. The method of approach might be to tabulate the bulk circulation of the papers opposing and supporting specific legislative issues and determine if there was any correlation between the bulk circulation favoring or opposing certain issues and the ultimate legislative result.

It was thought that the most effective study of voluntary organizations should take up the various methods employed by them in influencing legislative action. The following things should be investigated: (1) The use of black lists; (2) coöperation between two or more voluntary organizations; (3) types of activity carried on by lobbyists; (4) participation in either primary or election campaigns for the nomination or election of legislative members. The results of each method employed by the different organizations could be compared with the effectiveness of the organization's efforts in getting measures enacted. This would give a possible basis for estimating the effectiveness of the different methods involved.

It was thought that a valuable investigation might be made of the types of legislative organization most easily influenced by extra-legislative forces by comparing the average of extra-legislative leadership with the different types of legislative organization, and noting any significant correlations that might appear. The following types of legislative organization and procedure should be examined in this connection: (1) Limitation on number of bills introduced; (2) committee hearings; (3) lobby instructions; (4) presence or absence of other types of legislative leadership; (5) presence or absence of legislative reference libraries; (6) one-party or two-party states; (7) joint committee systems.

The director of the round table is under great obligation to Dr. H. W. Dodds who had outlined the work of the group, and who was expected to be its director, but who was prevented from attending at the last moment by a call to important governmental services. The whole group and the director in particular are also under lasting obligation to Miss Helen M. Rocca, of the department of efficiency in government of the National League of Women Voters, for her very intelligent and discriminating service as secretary of the round table. Recognition should also be made of the services of Dr. Rodney L. Mott who served efficiently as secretary on the last day of the session.

ARNOLD BENNETT HALL.

ROUND TABLE ON THE PERSONNEL PROBLEM

SCORING THE CIVIL SERVICE LAWS

1. *Scoring the Work of the Civil Service Commission.* The subject "Scoring the Work of the Civil Service Commission" was assigned to the round table on the personnel problem. The fact that this topic was the legacy of the first Conference at Madison in 1923 gives evidence that this particular round table has already achieved continuity of effort and that it is building up an experience. At the very outset, however, the 1924 members while accepting their inheritance showed a measure of independence typical of a second generation by substituting for the topic assigned a kindred subject, namely, "Scoring the Civil Service Laws." The reason for this divergence requires some explanation by way of introduction.

The Madison group of 1923 had suggested the possibility of rating the relative efficiency of civil service commissions in this country. All members were not willing to commit themselves to this hypothesis, for they knew that a scientific scoring was dependent upon the analysis of several variables which might not lend themselves to accurate measure-

ment. Nevertheless this pioneer and adventurous round table of 1923 was ready to hazard an experiment and launch upon an attempt to discover any standards of measurement that would be scientifically accurate and applicable.

The first step in the quest was to ascertain the normal or primary functions of a civil service commission. Obviously this was necessary in order to have something to rate. To this end a list of activities was prepared, derived largely from an analysis of the functions and activities of the existing civil service commissions. The aim was not to compile an exhaustive list, but rather to register the activities which a commission must perform in order to administer successfully the merit system in recruiting, and to foster improved relations between the government and its employees.¹

Assuming tentative agreement merely for the purpose of continuing the inquiry, the 1923 group next proceeded to search out the information that would be necessary to provide measurements, hoping that an analysis of the data obtained would lead to the discovery of definite evidence which might later be used to score some, if not all, of the activities. As an initial step a questionnaire was designed to test the feasibility of this method of pursuit and sent in the spring of 1924 to the civil service commissions operating in the larger municipalities of this country. Information was requested under the following heads:

I. *General Information*: (1) total number of employees on payrolls at end of year (omit seasonal); (2) total number of employees in classified service; (3) in competitive class; (4) in exempt class; (5) in labor class, if classified; (6) total payroll for classified employees.

II. *Civil Service Commission* (Staff and expenditures): (7) Number of commissioners; (8) aggregate salary; (9) salary of president; (10) total expenditures for year. *Itemized expenditures*—(11) advertising, (12) equipment (maintenance and new), (13) postage, (14) printing, (15) salaries, (16) special examiners and assistants, (17) stationery and supplies, (18) telephone and telegraph, (19) miscellaneous. *Staff examiners*—(20) number, (21) aggregate salary, (22) salary of chief examiner. *Clerks and other employees*—(23) number, (24) aggregate salary.

III. *Administrative Functions*: Duties classification—(25) Total number positions classified on basis of duties; *Salary standardization*—(26) Total number of positions compensated under standardized scale; *Examinations and appointments*—(27) Number of examinations held

¹ For list of tentative activities, see *American Political Science Review*, pp. 127-129 (Feb. 17, 1924).

(excluding labor and promotions), (28) Total number of applicants, (29) Number of examinations with three or less applicants, (30) Number of examinations given with aid of outside experts, (31) Number of examinations given with aid of department officials, (32) Average number days elapsed between date of examination and date of posting results, (33) Number of temporary or provisional appointments to permanent positions, (34) Number of provisional appointees whose employment exceeded term fixed by law, (35) Number of eligible lists with three or more names in force December 31, 1923, (36) Number of appointments to permanent positions in year. *Efficiency ratings*—(37) Number of rating periods per year, (38) Number of ratings recorded for typical rating period, (39) Number of ratings revised by or through commission. *Promotions*—(40) Number of regular examinations, (41) Number of candidates examined. *Separations*—(42) Number resigned, (43) Number removed,) 44) Number laid off, (45) Number retired, (46) Number died.

IV. Judicial Functions: (47) Number of formal appeals made to commission on account of removals.

A large proportion of the municipal civil service commissions replied to this questionnaire. The facts and information thus received were tabulated by Mr. E. M. Martin, secretary of the public affairs committee of the Union League Club of Chicago and a member of the round table at Madison. So it was that this excellent piece of experimental work greeted the members of the 1924 round table and invited them to the task of appraising the data received in the light of the particular purpose in mind, namely, the creation of standards that may be used to measure accurately the work of the several commissions.

2. *Procedure of the 1924 Round Table.* The first task confronting the members of the 1924 round table was of a judicial rather than of an investigative character involving the practicability of proceeding with the methods of inquiry initiated by the Madison group. Was this method satisfactory? Did the data and information obtained from the questionnaire comprise acceptable objective evidence that could be used for rating the work of civil service commissions? These were the questions for immediate decision.

A study of the questionnaire demonstrated that the data obtained could not be used for the purpose at hand. First, it was very clear that all commissions answering had not interpreted the questions uniformly. There were differences in points of view because of the jurisdictional character of the nomenclature. This matter of interpretation, however, could perhaps be corrected by subsequent questionnaires supple-

mented by definitions and explanations which would create a common language and understanding.

Second, and more serious, it was evident that the data in many instances, while interesting for comparative purposes, could not be used as a basis for rating. For example, some commissions had a large number of examinations because there were many vacancies during the years under observations: while other commissions during the same time period had few examinations because there happened to be a scarcity of vacancies. To comprehend the reasons for these differences, one would have to analyse the employment conditions in the several cities and become involved in local business cycles and other misty economic problems, as well as in problems of tenure and employment turnover which are in themselves almost equally complicated. It was evident in greater or less degree that the information obtained under each single caption of the questionnaire presented intricate problems when viewed from the standpoint of "objective evidence" and "standards of measurement."

Third, the old question, ever present, was raised: Did the data serve to measure the success or results of the commission's work? The members of the 1924 round table were by no means certain. The quantitative information obtained might measure the magnitude of the tasks, but it was very certain that it would not measure the character or quality of the work performed.

Fourth, and most important of all, the members observed that no two civil service commissions were operating under the same laws, ordinances, rules and regulations. Even assuming that standards of measurement had miraculously been discovered it would be unfair to rate a commission zero on an activity which it had no legal right to perform or to give another commission a low rating because it happened to be limited in the method of administering this activity. Before any comparative ratings can be made justly all commissions must at least be reduced to a common denominator certifying the authority or legal right to act.

It was the lack of uniformity of laws, rather than the other objections, that led the 1924 round table to postpone the quest toward "scoring the civil service commissions" and endeavor to overcome or at least investigate other problems that were barriers to the approach. This precipitated the problem of rating the civil service laws. This seemed to constitute an essential preliminary. If it were possible to rate the laws, it might also be possible subsequently to rate the commissions on the basis of opportunity for work or service. At least lack of opportunity to perform effective work could be specifically noted.

3. *Scoring the Civil Service Laws.* The members of the round table then considered methods of discovering the minimum activities or functions which should be written into the law. Obviously these minimum activities should relate to the primary purpose of the commission, namely, the selection and certification for appointment of competent persons to fill positions placed under the jurisdiction of the commission. By way of experiment, merely to introduce a mode of procedure, the members used the deductive method of approach by discussing subjects of activities furnished by Mr. Fred Telford, of the bureau of public personnel administration. These subjects included:

I. *The Classification of Positions:* (a) jurisdiction classification, (b) duties or occupational classification.

II. *The Compensation of Employees:* (a) adoption of compensation plan, (b) administration of the compensation plan.

III. *The Selection of Employees for Entrance and Promotion:* (a) tests, (b) employment lists; (c) reemployment lists.

IV. *The Certification and Appointment of Employees to Positions in the Classified Service:* (a) certification of eligibles to permanent positions; (b) selections and appointment of certified eligibles to permanent positions; (c) provisional appointment to permanent positions; (d) temporary appointment to extra positions; (e) emergency appointments; (f) probation period.

V. *The Regulation of Employees in the Classified Service:* (a) Transfers; (b) leaves of absence; (c) service standards and ratings; (d) training; (e) demotions; (f) attendance.

VI. *The Separation of Employees from the Classified Service:* (a) lay-offs; (b) suspensions; (c) rejections on probation; (d) resignations; (e) retirements, including pension systems; (f) removals.

VII. *Miscellaneous Functions:* (a) adoption and amendment of rules and office regulations; (b) checking and certification of payrolls, (c) investigation of operation of law and rules, (d) investigation of organization and procedure of departments and institutions; (e) stimulation of interest in and coöperation in bringing about proper working conditions, (f) preparation and dissemination of literature and other material relating to personnel problems and practice.

The round table group in making arbitrary rules of procedure was not willing to write into the standard civil service law any activity on this list unless there was evidence to prove its desirability. If there was insufficient evidence the activity was to be marked uncertain or "research", with the understanding that further investigation would be

necessary before commitment to its acceptance or rejection. Discussion resulted in tentative agreements on a limited number of problems which the group felt could be accepted on the basis of available data and experience. And, as may readily be surmised, the discussion precipitated a number of subjects for reference to the research laboratories.

Without committing the round table to any agreement some of the more important subjects or propositions that were discussed are listed herewith. It will be the purpose to use these propositions for further experiments, to test their validity by registering the experiences of civil service commissions now operating under them, that is by trial and error, and to obtain objective evidence if possible. Subsequently, if a problem proves sound there may be opportunity to devise methods of evaluation.

Proposition 1—Jurisdictional Classification—Unclassified Service. The members were unable to express any general principle that should be written into a definition of the unclassified service. The alternative was to list by title the positions which should be included therein. The following was submitted by Mr. Telford who had been appointed to assemble opinions expressed in the discussions:

The unclassified service shall include all positions held by: (1) Persons in the uniformed military or naval service, (2) persons elected by the voters, (3) judges of courts, (4) teachers in the public school system (including federal, state, or city-operated colleges, universities, and normal schools), (5) one confidential secretary to the chief executive, (6) persons engaged on public work but employed by contractors, (7) persons appointed or designated to make or conduct a special inquiry, investigation, or examination, where such appointment or designation is certified by the personnel agency to be for work which cannot or should not be performed by persons holding positions in the classified services, (8) persons appointed by the chief executive, with or without the advice and consent of the elective legislative body or branch thereof, and engaged for a substantial portion of their time with the determination or definition of major policies (as opposed to expert administrative work). (The above positions, i.e., 1 to 8, are considered as "certain.") In addition there are other positions considered "conditional" which may or may not be included in the unclassified service. Local conditions and status of public opinion might be determining factors. Theoretically they belong in the classified service. These are (9) notaries public, (10) officers of election, (11) one clerk of each court, (12) two principal employees of the legislative body, (13) one confidential clerk or secretary

for each appointing authority and each judge of a court, (14) students in any educational institutions employed less than half time, (15) inmates confined in any institution and paid not to exceed ten dollars a month.

This is a sample of one proposition, or, in other words, the formulation of an hypothesis. Is it sound? What constitutes proof? In the collection and classification of facts of observation to prove or to reject the hypothesis, investigations in individual jurisdictions were suggested to answer the following questions or problems:

(1) Which of these unclassified officers exercise policy-determining powers? (This involves a definition of what constitutes policy determination.) (2) Which perform expert administrative duties? (3) Which do not perform any real duties? (4) Which have some combination of the above duties, and the relative amount of each? (5) An appraisal of the qualifications possessed by the officers—judged from the viewpoint both of the layman who determines policies and of the expert administrators?

The following problem, for instance, might be considered a sample: The selection, duties, qualifications, supervision, compensation, hours of work, and attendance of "confidential" clerks, stenographers and secretaries in the unclassified service of the city of X.

Proposition 2—The Jurisdictional Classification—Classified Service. Mr. Forrest Z. Wheeler, secretary, Minneapolis Civil Service Commission, expressed for the round table the following tentative proposition regarding the classified service:

The classified service shall comprise all positions under the jurisdiction of the civil service commission. There shall be three divisions, namely, (1) the competitive, (2) noncompetitive, and (3) labor. The *competitive* division shall comprise all positions under the jurisdiction of the commissions subject to open competitive examination either for original entrance or promotion. The noncompetitive division shall include positions to which appointments under competition are undesirable because of low content of position, unusual working conditions relating to hours, days of week, location of work, living requirements, or low compensation for restricted, part-time, or seasonal service. The *labor division* shall provide for the appointment of unskilled laborers on basis of priority of application for various grades of service after such examinations (largely of a physical nature) as the commission may prescribe. The certification, lay-off, discharge, reemployment of this group shall be under the supervision of the commission.

Among the problems of research involved are: (1) Reasons for and objections to the "exempt" or "excepted" positions as included in the classified service under many laws. (2) Analysis of positions in the noncompetitive class in any one city or state to ascertain whether or not competition would be desirable for entrance, and if not, why.

Proposition 3—The Duties or Occupational Classification. After group discussion a committee consisting of Messrs. Kingsbury and Lambie reported as follows:

All positions shall be classified into "classes" and "services." Classes shall be defined by specifications which shall indicate (1) title given to the class, (2) duties and responsibilities attached to the positions allocated to the class, (3) minimum qualifications required for the satisfactory performance of the duties in each class, and (4) whenever practical, lines of promotion. The classifying agency shall allocate all positions to classes in accordance with the specifications. Thereafter all positions shall be officially designated by title of the class to which it is allocated. The classification shall be used as a basis for determining tests for entrance, for establishing standard salary ranges and rates for each class, for budget purposes, for checking payrolls, and for developing and maintaining efficiency ratings, if used.

Research problems presented with this proposition include the determination of agency or agencies responsible (a) for preparation of the specifications, (b) for determining salary ranges and rates, (c) for allocating positions to "classes," (d) for administering the classification plan after once established. For these problems a rich field for observation is offered in the reclassification and salary standard experiments of the last fifteen years; in the controversial relationships of civil service commissions and budget bureaus; and in comparing the several types or divergencies from type of classification as found for instance in the classification for the federal government as proposed by the United States bureau of efficiency and the personnel classification board, or for the City of St. Paul as proposed by the city civil service commission.

Proposition 4—Authority of Civil Service Commissions in Recommending or Fixing Compensation of Employees in the Classified Service. The civil service commissions shall have recommendatory power in determining minimum and maximum rates in a "class."

Problems for investigation include (1) number of eligibles who refuse appointment because of low salaries, (2) turnover statistics, (3) relation of civil service commission to budget agency in matters of salary determination.

These four propositions are listed to illustrate a mode of procedure rather than to suggest their relative importance. There were other propositions considered but time did not permit the formulation of definite statements. More or less tentative agreement was reached upon propositions for selection of employees, tests, employment lists, reemployment lists, publicity, forms of records, and political activities. Members of the round table intend to continue communication with one another and develop these propositions so that they may be subjected to proof. If this method is continued it will be possible to piece together the many statements which may be suggested for incorporation in the standard civil service law and to offer them to the scrutiny and inquisition of persons interested in public personnel management. Experiences, suggestions, statistics, trials, and errors may then be recorded.

Special mention should be made of the most interesting and instructive memorandum on publicity by Miss Gena Thompson, member of the Wisconsin Civil Service Commission, and also of a talk by Mr. E. O. Griffenhagen on civil service records.

4. *Proposed Thesis Topics for Graduate Students.* At the final meeting the members of the round table recommended the following thesis subjects for graduate students in political science: (1) Types of civil service commissions; (2) Service records; (3) Books and forms for recording information and for reporting; (4) Training for the public service; (5) Vacation practice; (6) Welfare activities of a commission; (7) Development of tests for a specific class of positions, e.g., fireman, plumber, file clerk; (8) Superannuation; (9) Publicity methods; (10) Types of civil service commissions; (11) Promotion in the public service; (12) Legal status of civil servant as compared with legal status of employee in private service; (13) Ex-service man problem; (14) Employee's representation; (15) Women in the civil service; (16) Age limits for entrance.

MORRIS B. LAMBIE.

ROUND TABLE ON PUBLIC FINANCE

STATE SUPERVISION OF LOCAL FINANCE

This round table had an entirely new personnel from that at the preceding conference, and also began the consideration of a new and more definite topic, although having the benefit of general discussions at the earlier conference. The subject considered was that of state supervision of local finance, and the following paragraphs indicate the principal phases considered.

1. *General Scope of Subject.* It was agreed and recognized that the subject of state supervision of local finance included various topics, such as: Supervision over the assessment of property, taxation and other revenues, expenditures, budgets, bond issues, and indebtedness, accounting methods, and law enforcement in regard to financial operations. It was also agreed that the problem should be approached from the point of view of administration.

The question was raised as to how far the policy of state supervision and centralization over local finance is necessary or advisable, and it was agreed that this question could not be answered at the beginning of the investigation, but might be undertaken later.

2. *Types of Materials.* Some consideration was then given to the various types of materials available for the study of the subject. It was recognized that the two main groups were official and unofficial. The official materials included constitutional provisions, laws, judicial decisions, regular reports of financial officials, and special reports of legislative committees. Under unofficial materials are included private studies by individuals, reports by bureaus of research, surveys by other private agencies, and special investigations in local finance in connection with particular branches of administration.

The question was next considered as to the importance of personal and field inquiries; and it was agreed that such sources of information are necessary and valuable, but that the data collected must be subject to critical analysis, as would also be the case with the official and unofficial printed material.

The second day's session of this round table was mainly devoted to the discussion of the agencies, objects and methods of state supervision of local finance, and the outline or analysis of these topics given below was approved.

3. *Agencies of Supervision.* Governor (appointing and removal power).

State Tax Commission: Tax supervision; Accounting, expenditure, and debt.

State auditor or comptroller.

State budget officer.

Legislative reference bureau.

State University.

State departments corresponding to various activities of local government.

Detached agencies: N. J. Commissioner of Municipal Accounts.

Temporary Agencies: Special committees or commissions.

The relative merits of different types of organization should be investigated.

4. *Objects of Supervision.* Taxation and revenue: Assessment and review, Fixing tax rates, Tax collection, Miscellaneous revenue control.

Handling public moneys: Selection of treasuries and interest on balances, Handling of special funds (state and local funds), Designating disbursing officers.

Budget and expenditures: Budget control, Appropriations, Expenditure control, Contract and purchasing procedure.

Debts: Incurring debt—amounts and purposes, Forms of debt, Provisions for repaying debt.

Accounting and auditing: Accounting forms and procedure, Accounting and statistical reporting, Auditing.

Local finance organization.

5. *Methods of Supervision.*

Constitutional, statutory, and common law.

Judicial control.

Administrative supervision:

Information and advice; Compiling and distributing general data—upon request, regular, Compiling and distributing statistics, Duty to instruct, Surveys (upon request or regular), Reference to state officer for advice.

Power of approval and disapproval: As to legality, questions of fact, questions of policy (optional, on appeal, obligatory).

Power and duty to direct: To require reports of action, To visit and inspect, Adoption of forms and procedure, To require specific act, To require adoption of policies.

State assumption of particular functions: For installation (optional, obligatory), For operation (optional, on appeal, in default, obligatory).

Control of personnel:

Selection: Qualifying examinations, Appointments from nominations, Qualifying nominations, Complete appointing power.

Promotions, demotions, transfers.

Removals: To initiate proceedings, For cause, Absolute power.

Grants in aid: It was recognized that such grants are of more importance as a method of supervision in other fields than in that of public finance.

6. *Quantitative Measurement.* At the third day's session, the question was considered whether it was possible to work out a rating scale for measuring quantitatively the degree or amount of state supervision in different states. It was recognized that in a particular field, a general estimate could be made of the degree of supervision and the states ranked accordingly; as, for example, in regard to state control over local indebtedness. It was the general opinion, however, that it would be very difficult, if not impossible, to prepare a detailed rating scale for comparing the degree of supervision in all the different fields, and that in any case such a scale must be based on somewhat arbitrary figures. For these reasons, it was agreed not to undertake any such scale of quantitative measurement at present, and to continue the qualitative analysis of the problems involved in the general subject under consideration.

7. *Aims and Purposes of State Supervision.* Consideration was next given to formulating the general aims and purposes of state supervision of local finance, as a basis for determining the standards on which the value of such supervision might be judged. The discussion on this topic continued into the following day, and agreement was reached on the following statements of aims and purposes:

a. To collect and publish information and statistical data so that reliable knowledge of local conditions might be available both to the local community and the state government, on the basis of which further action might be determined.

b. To discover and prevent defalcations, fraud, and corruption, and to enforce other generally established legal requirements for honesty in public administration.

c. To enforce minimum standards of record-keeping and other financial procedure necessary for effective local government.

In addition to the above-mentioned aims, which were approved as generally advisable, the following aims were also recognized as existing to some extent, but where it was believed that the policy of extended application was one which should depend on special conditions.

d. To promote efficiency in methods of local self-government. A definition of efficiency was submitted, as follows: "To secure the same results at lower costs, or to secure more and better service with the same costs, or with less costs."

e. To control the policy of local governments, with particular reference to the better distribution of public expenditures and burdens.

In connection with the discussion of aims and purposes, it was also recognized that the various methods of supervision might be classified under certain general headings on different bases, as in the two following groups:

I. a. Supervision over the collection of state revenues. b. Supervision over the expenditure of state funds by local governments. c. Supervision to guide and restrain the local authorities.

II. a. Supervision of finance procedure. b. Supervision to enforce constitutional and statutory provisions.

8. *Standards for Judging Methods of Supervision.* Discussion of appropriate tests of standards for measuring the value of various methods of state supervision, led to acceptance of the following:

- a. Their effect on local self-government.
- b. Their effect on the complexity and burdens of state administration.
- c. The extent to which all the main objects of supervision are included.
- d. How far do they accomplish the approved aims? (7 a, b, c).
- e. How far are other aims attempted (7 d, e), and if so, to what extent are they justified by conditions and results.

9. *Standards of Budget Procedure.* On the fourth day, the round table took up for consideration the application of the general standards to some of the particular methods of supervision, beginning with the standards of budget procedure. The following steps were agreed to as the important stages in any adequate system.

a. The preparation and compilation of preliminary estimates. These should be accompanied by data of the preceding year's experience and other explanatory statements. Much of the necessary data can best be secured by personal conferences and contacts between the budget authorities and various departments, but should also be shown in the formal statements.

b. The preparation of a provisional budget with both summary and detailed statements, and definite recommendations.

c. The holding of one or more public hearings after public notice.

d. Consideration by the legislative or appropriating authority.

e. The definitive adoption of the budget, including both appropriation and tax levies, which should be accompanied by summary financial statements.

f. Provisions relating to transfers and supplemental appropriations.

Standards of procedure, it was agreed, should also be prepared for each of the other main objects of supervision, such as: Taxation and revenue, Handling of funds, Expenditure control, and The incurring and payment of debts.

10. *Standards of Financial Information.* On the fifth day the round table considered certain general requirements which it was believed should be shown by any satisfactory system of financial reports, as a basis of information about the financial condition of local governments, without, however, attempting a detailed schedule of all the items which might properly be included in the system of financial reports. The following were approved:

a. The need for a clear and definite terminology in financial accounts and reports, which was noted at the preceding conference, was again confirmed.

b. As to how far government accounts should be similar to commercial accounts, and in particular as to the placing of government accounts on an accrual basis, it was recognized that both of these were desirable, but it was also believed that practical difficulties might make these impossible at once, though adjustment should be made in the records so as to approximate as close as possible to commercial methods and the accrual basis.

c. The need was recognized for a consolidated budget and financial report, with summary and detailed statements, presenting past and preparative data. This should include:

A statement of operations for showing:

Receipts, revenue for current purposes, loans, and other nonrevenue receipts.

Expenditures, current maintenance, current debt payments, outlays from current revenues, outlays from loans.

Balances at beginning and end of year.

Comparison of operations with budget.

Statements of debt and public property.

Assessed valuation and tax rates.

It was recognized that statutory and other provisions often make necessary a record showing the financial transactions of particular funds, but it was believed that much of the detail of such records is of little

importance to the general student of financial conditions, and while the keeping of the funds accounts is necessary to comply with legal provisions, it was advisable to reduce the number so far as possible.

11. *Standards of Comparison.* Mention was made of the desirability of considering the relative merits of different bases for comparing financial and other statistical data, as for example: Per capita figures, percentages, averages, means, medians, units of work or service, etc. The time available, however, did not permit of any extended discussion or analysis of these matters.

12. *Special Problems.* Several members of the round table agreed to undertake the investigation or study of certain special problems connected with the general subject. These problems included the Indiana system of accounting and tax administration, the Iowa budget law of 1923, accounting control in Ohio, and the New Jersey law for the control of municipal accounts and budgets.

JOHN A. FAIRLIE.

ROUND TABLE ON MUNICIPAL ADMINISTRATION

DEVELOPMENT OF A METHOD OF RATING THE RELATIVE EFFICIENCY OF CITIES

1. *Nature and Scope of the Problem.* Comparisons of the costs of running the business of a municipality are often made, one city with another, or with those within some arbitrary group. In making such comparisons the usual measure is the per capita or per dollar valuation of the functions performed. Wholesale mistakes are made in such comparisons, as few compilers and interpreters know, or take into consideration, the essential differences which enter into the functionalization of municipalities. A recent comparison of park systems, in a list based solely on area, placed Chicago with its well-developed and useful system at the bottom, and Los Angeles with its undeveloped and somewhat inaccessible parks at the top.

The report of the round table of last year said: "The subject of political statistics covers a very generous field. For this reason the round table on political statistics concluded to limit its discussion to municipal statistics, as found in the group of cities ranging from 100,000 to 500,000 population. The round table had before it a rather complete statement of the activities conducted by such typical cities. Taking each activity in turn, an effort was made to indicate the minimum of statistical data necessary to give officials and citizens a reasonable idea of the degree of

effectiveness with which such activity was conducted. It is expected that the complete statement of these activities with their essential data, when properly weighed as to importance, will furnish a reasonable test as to the quality of government by any community."

"The determination of such tests is less simple than it may first appear. It is desirable to devise a single test applicable to cities of every size and location. Obviously, however, larger cities undertake activities not necessary in smaller ones. Criteria available in Detroit could not necessarily be applied to Dayton, and the absence of such criteria should not be taken as a reflection upon Dayton's government. To obviate this difficulty, the suggestion was made that tests be arranged in sufficient detail to judge even the largest communities, with provision for eliminating certain specified questions when applied to smaller places. Such a plan eventually may be evolved. In the meantime, it seems practicable to devise standards suitable for a large group of important cities; such standards to be later modified for communities of less size."

This year a round table was created to continue this study under the title "Municipal Administration: development of a method of rating relative efficiency of cities." The round table proposed to continue the study of the three fields outlined last year; first, simplified and uniform nomenclature; second, proper location and coordination of functions; third, effective criteria for degree of effectiveness of municipal functions; and, a combination of these three into a plan for a continuous service audit for the municipalities.

Its task is summed up in establishing the things to be measured, the attainable standards of each function measured, and some method of weighing objectively the results accomplished. The personnel of the section included several who have had administrative experience, several who have had considerable experience in research and interpretative work, and several who are making scientific studies in this field. Those of administrative and research experience drew upon widely varying fields of practice and attempted to mobilize their differing viewpoints. This collective interpretation (with much further criticism of the findings by others in the future) plans to establish which functions should be performed by a municipality and how these things ought to be done. The statistics gathered and published by municipalities, bureaus of research and individuals should be for the real purpose of information of both the officials and the public. They must offer in their detail and mass a constructive interpretation of the operation of the governmental unit.

2. *Methods of Statistical Measurement Now Employed.* Two good measures of the success of administration in bulk quite frequently applied are, first, the morbidity, mortality and birth rates as compared to departmental functions of health and sanitation; and, second, the costs of insurance for fire, accident, burglary, costs of hospital and doctor's bills, garage bills, private school tuition, and other citizen private bills as against the costs and performance of related municipal departments.

A variety of methods is used in making these comparisons. It is obviously impossible to make such comparisons with fairness and accuracy. Private corporations, which are profit-making in essence, are usually either poorly organized or of such high plane of detail that comparisons on the basis of population or per capita costs are of little value when extent and conditions of work are unknown. Municipal reports fail to give sufficient detail to form accurate conclusions and only by personal inspection and first-hand study can proper comparisons be drawn.

Four methods of comparisons may be used: 1. Basis of population, (per capita), 2. Basis of revenue or assessed valuation (per dollar), 3. Basis of area (per square mile), 4. Basis of results obtained (service rendered).

A study of municipal statistics will show the inequalities of such comparisons when population and area are made the ruling factors in determining municipal expenditures. A recent study has been made which measures cost per capita in its relationship to persons per policeman, fire loss, low infant mortality rate, small average water consumption, least number of inhabitants per acre of park land, greatest library circulation per volume, percentage of pavement to total street mileage, per cent of population voting. All of these relationships offer serious objections when we consider that such factors as type of population, location and configuration of city, building laws and local building problems, climate, developed and undeveloped park area, relation of suburban areas, industrial conditions, all these having considerable bearing on costs, are not taken into consideration in the above comparisons. Congestion of population on a small area and the same population on a large area, on a flat as compared with a hilly territory, on an inland as compared with a seacoast location, a climate with extreme changes as compared with an equable one, bring differing needs in streets, traffic, fire, police, lights, water and sanitation functions with varying problems, results and costs. Higher standards of living demand

more in schools, museums, parks, playgrounds, libraries, and other cultural and recreational facilities.

3. *Methods of Statistical Measurement Proposed.* The members of the round table agreed that by establishing certain attainable standards for different functions following the example of the fire underwriters, school, playground, financial, health and engineering organizations, the round table will be able to set up a measure of each of the details of administration. It finds that the fire underwriters determine the insurance rate by an examination of the location, amount and pressure of the water supply; the location and number of hydrants and alarm boxes; the type, location, effectiveness and personnel of the fire apparatus; the conditions of buildings as governed by zoning and building codes and inspections; as well as other related factors. The school examiners study the attendance in various relationships; the days of school; relation of high school to elementary pupils; percentage of boys and girls; expenditure per pupil; expenditure per teacher; types and equipment of buildings; and numerous other factors. The public health officers measure conditions leading to morbidity and mortality rates. Such conditions would include methods of control of communicable diseases; inspection of property for nuisances; personal hygiene instruction; food inspection; milk and water inspection and analysis; fly and mosquito suppression; maintenance of laboratories for examinations; and educational campaigns. In the same manner other measurable functions have their criteria for inspection. There are other functions which are extremely abstract and lend themselves less to examination and measurement. These include the operation of the legislative body; the administration of justice; and perhaps the extent of corporate power which the city has, and the type of organization under which it operates.

4. *Sample Score Cards Proposed.* The round table proposes the following incomplete general plan as a sample score card of what might, and eventually will, be developed for the city as a whole. It further presents for discussion and criticism a sample plan for the examination of the police department.

General Plan. Total weight 100.

I. Legal Organization (weight 10).

Extent of corporate power.

Areas involved.

Degree of autonomy.

Type of organization.

Methods of selection of officials.

II. Overhead departments (weight 40).

Legislative.

Administrative: Legal, Finance (Budget, Revenue, Expenditures, Bonds) Purchasing, Custody, Audit, Personnel.

Research Planning, Service Audit.

III. Functional departments (weight 50).

Safety (25): Police, Fire, Justice, Inspections, Zoning.

Health and welfare (15): Sanitation, Hospitals, Indigent, Corrections.

Education (25): Schools, Libraries, Museums.

Works and Properties (15): Streets, Sewers, Wastes.

Recreation (10): Parks, Playgrounds.

Utilities (10): Water, Light, Power, Gas, Transportation, Housing, Markets.

Police Department. Total weight 100.

Personnel, 60.

Administrative head, selection, tenure, salary, powers, 30.

Salaries, 10.

Methods of selection, probation, training, classification, promotion and demotion, efficiency ratings, removal and dismissal, transfer, retirement, 25.

Tenure, 25.

Appearance, 5.

Legal provisions, relation between powers of local and central political units, 5. Total, 100.

Plant and Equipment, 15.

Location of stations, 10.

Type of stations, 10.

Signal systems, 10.

Transportation, motorcycles, armored cars, ambulance, patrol wagon, boats, horse, 20.

Personal equipment, uniforms, revolvers, clubs, storm coats, traffic aids, 5.

Traffic control devices, 25.

Identification devices, 15.

Training equipment, gymnasias, shooting gallery, 5.

Total, 100.

Methods, 25.

Patrol, 5.

Traffic control, 20.

Detection, 20.

Identification, 10.

Records and statistics, 15.

Special detail, 10.

Coöperation with sheriff, coronor, state police, federal officers, 10.

Power to make regulations, 10.

Total, 100.

5. *Explanation and Discussion of Sample Score Cards.* The weights given to personnel, plant and equipment, and methods, would vary with different departments. As an illustration—the fire department might be 20, 60, 20 respectively, while the health department might be 20, 10, 70 respectively, as compared with the 60, 15, 25 of the police department. These, of course, are merely suggestive and may vary considerably in the other departments.

Obviously, the short time of meeting of the Conference would not allow a more detailed presentation of the suggested rating scales. A further diagnosis is being made by the members of the round table and is to be submitted to many persons in administration and research who are competent to criticise.

This report would not be complete if it did not mention the criticisms which arose in the evening discussion meeting and in the joint session with the round table on Psychology and Politics. This discussion centered around the necessity of eliminating the personal judgment factor in scoring and the adoption of positive measurable attainable criteria. The members of the section are confident that both of these conditions will be provided for in its plan. Another objection to the use of weights or values for each activity and sub-activity may have some validity. This method is used with success in many types of physical or personnel examination and would seem to apply equally well here. The round table hopes that anyone interested in these matters will write the chairman and make criticisms and suggestions that will aid in the study.

Briefly summarized, the section believed that municipal government is a business concern with property, plant, personnel, stockholders, and a product. It is a business which requires a broad judgment, a clear vision, an intimate knowledge of the needs of the entire city, and a study or measure of the ways to effect the wisest economy. This business can be wise and economical or foolish and wasteful. It may continue to operate as a political affair as in the past, or may be a real coöperative and industrial concern, achieving the greatest results at the least reasonable cost to its stockholder producers and consumers who, as the same persons, benefit by, and pay for the product. Control through

organization and centralization or responsibility has been the basis of study and improvement of the immediate past. Control through the budget, cost-accounting, comparable reporting and interpretation or service audit must be the interest of the present. Take stock of the assets, examine the needs, measure the costs, discover the leaks, root out the parasites, weigh the benefits to be derived, and our cities will be able to perform their functions to a larger degree and in a more satisfactory manner than is now deemed possible.

EDWIN A. COTTRELL.

ROUND TABLE ON INTERNATIONAL ORGANIZATION

INTERNATIONAL JUDICIAL ORGANIZATION AND PRACTICE

1. Nature and Scope of the Problem. As a result of the activities of this round table at the first session of the Conference, held in Madison in September, 1923, it had been decided that the maximum benefit to be had from a study of the general field of international organization had already been obtained, and that the table should, therefore, at this second session, deal only with the special topic of international judicial organization and practice. This would make doubly difficult that concentration of attention upon methods rather than upon the substantive questions of subject matter in this field, which is inseparable from all the activities of the Conference as a whole, but it was hoped that it would lead to beneficial results not obtainable by continued attention to the whole field of international organization.

The objects of the efforts of the table at the second session were to continue the four inquiries of the previous session (materials, observations, methods, topics, and to these were added the purpose of formulating certain tentative conclusions in point of both method and subject matter, subject, of course, to further investigation. As has been indicated, this fifth objective inevitably received greater attention than it had during the first session, where it was almost entirely neglected.

On the questions of materials and field observations desirable for scientific study in this field nothing further was done beyond the activities of 1923 except as those problems arose in connection with discussions of methods and topics. The activities of the table in 1924, therefore, were confined to: I. Further study of the applicability of methods of exact measurement to the problems under examination; II. An outline of the problems calling for investigation; and III. The formulation of certain tentative conclusions for further study.

During the weeks preceding the Conference the director made a tentative analysis of the field of study before the round table, as follows:

I. Survey of existing international judicial bodies and treaties for the creation of further such bodies and for the submission of international disputes to such bodies for settlement.

II. A study of the relative values of existing and projected international tribunals in comparison one with another and with arbitral tribunals as organized and operated in the past, with reference both to structural organization and to procedure, including particularly the extent to which arbitral decisions have: (a) involved problems of divergent systems of private law, (b) been decided by the umpires (members of the tribunals not representing the parties in dispute), and, (c) rested upon grounds of law rather than expediency.

III. A study of the means available for securing the submission of disputes to existing or projected courts in the future.

Various prospective members of the round table undertook to prepare some investigations of these sub-topics in advance of the meetings of the round table.

2. *Method of Determining Value of Arbitration.* When the Conference assembled it was decided to devote the first two meetings of the round table to a study of the relative value of arbitration as a means of providing national security and paving the way for disarmament, a question raised within recent weeks by the debates led by the British and French prime ministers, MacDonald and Herriot, in the meetings at Geneva of the Fifth Assembly of the League of Nations. The result was a suggested outline of investigations, with methods of measurement and tentative conclusions, indicated in brackets, as follows:

A. Value of arbitration as a means of providing national security.

I. The concept of national security from attack and injury.

a. As measured objectively by the scientific observer.

1. National defenses of the states of the world.

(a) Armies (personnel in officers and men in standing armies and reserves; training; equipment and materials).

(b) Navies (ships and their power and equipment; personnel).

(c) Aerial forces (same details).

(d) Industrial resources available in war.

(e) Frontiers and fortifications. [It was agreed that substantial results could probably be accomplished here in spite of difficulties in obtaining and standardizing data; that the results would probably indicate that the problem was confined, for all important significance, to

the states of Europe, the United States, and Japan, in view of the military impotence of the states of Latin America, Africa, and Asia, unless some of these powers should be led to armament increases by the prospective withdrawal of protection of great powers, a factor to be tested by a study of statements of policy by the small powers.]

2. History of aggressions in relation to defenses.

(a) Hostilities against unarmed states.

(b) Hostilities against well-armed states. [The results would probably have to be formulated without reference to the question of responsibility for the outbreak of hostilities and, while priority of military action could possibly be ascertained, this also would mean little; the results would probably indicate no correlation, negative or positive, between armaments and liability to aggression.]

b. As measured by opinion in endangered states.

1. Surveys of press, pulpit, platform, and personal opinions.

2. Surveys of national traditions in literary and forensic expressions.

3. Surveys of propagandist controls (official, semi-official, private organizations).

4. Calculations of possible turns or trends (by means indicated in 1-3 above; see also a-1, above, at end).

5. Studies of possible effects of national policies, economic, military, and foreign, in provoking aggression (diplomatic history with correlation of the indicated factors).

II. The concept of arbitration.

a. Definition to include only legal ("justiciable") questions?

1. Survey of treaties indicating cases suitable for submission in future.

2. Survey of cases submitted. [Would probably discover many cases submitted not wholly legalistic in character, if regarded as a whole, but largely capable of judicial treatment in separate aspects.]

b. Definition of causes of war.

1. Percentage of causes justiciable in character.

2. Percentage nonjusticiable. [The possibility of giving arbitral form to acts endangering national security would probably be found to be limited, due to the incomplete scope of existing international law, and a comparison of acts claimed in the past to endanger national security with acts arbitrated, would probably reveal much divergence in type, subject to the qualification under a-2 above.]

c. Effect of general obligatory arbitration clause.

1. Notation of exceptions named.

2. Study of cases submitted under such clauses in past. [Would probably find little or no data under c-2; might find certain exceptions (c-1) or none; in former case, and bearing in mind tentative conclusions under a and b, above, would discover that arbitration alone, without some method of treatment for wholly political questions (mediation or conciliation) would probably be inadequate to the end in view; and that this would also be true if any exceptions were made to the general obligatory arbitration clause.]

d. Cases still subject to diplomatic negotiation.

1. Past practice (treaties for submission and cases submitted). [Would probably find universal stipulation that (only) cases "which diplomacy has failed to settle" are suitable for submission, but that all cases submitted were at the time still subject to negotiation.]

2. Effect of obligatory clause.

(a) Terms of clause (exception for disputes still capable of settlement by negotiation?). [Would probably find no data under 2-b but would find that effect of clause would probably be possibility of bringing into court cases still susceptible of negotiation.]

III. Enforcement of arbitration.

a. Of submission.

1. Cases of submission and of refusal to submit in accord with treaties.

2. Means of compelling submission.

(a) In national judicial proceedings.

(b) In international practice. [Would probably find little data under a-1; would find method of hearing at instance of one party even in absence of second, under a-2-(a), but little under a-2-(b).]

b. Of awards.

1. Awards rejected in past.

(a) For errors in substance.

(b) For errors in procedure (*ultra vires* action, fraud, coercion). [Would probably find little or nothing under (a) and very few cases under (b), mainly cases of rejection for action in excess of jurisdiction.]

2. Effect of adoption of obligatory arbitration clause.

(a) Acceptance or rejection of awards in cases submitted in past as in III-a-1, above.

(b) Acquiescence of states in decisions by prize and other courts of other states in absence of special and contemporary agreement of submission. [Would probably find little data under (a) but much under (b); might calculate probable willingness to submit cases and

respect awards under obligatory clause by comparing results under III-a and b; but would probably find, in view of results under I-b and II, above, that endangered states would demand more than mere agreement for obligatory arbitration as guarantee of national security.]

The members of the round table then turned to the main topic of the session.

3. Outline of Suggested Methods, Problems and Tentative Conclusions.

The results of the discussions of the remaining meetings of the round table, also cast in the form of an outline of methods and probable conclusions, follow:

B. Present and Future Organization and practice of international judicial settlement.

I. Existing tribunals, including tribunals for the creation of which, in certain eventualities, agreements have already been made, and treaties for the submission of disputes to such tribunals.

a. Existing and projected tribunals (an international tribunal was defined tentatively as a tribunal created by international authority for decision of cases involving the rights of states or their nationals under international law).

1. Permanent Court of International Justice (League).
2. Permanent Court of Arbitration (Hague).
3. Central American Court of Justice (reestablished).
4. Tribunals created by peace treaties of 1919-1920 (ten or more).
5. Mixed commissions created in the post-war period (five or more).
6. Capitulary courts in China, Egypt, etc.
7. Tribunals operating within international administrative unions.
8. Bilateral arbitral tribunals provided for certain emergencies.

[It would probably be found that about fifty international tribunals are in actual existence, with over one hundred provided for in event of certain emergencies.]

b. Treaties for submission of disputes.

1. Covenant of the League of Nations.
2. Convention for the Pacific Settlement of International Disputes (Hague).
3. Convention of the Central American Court.
4. Treaties of 1919-1920.
5. Special bilateral treaties.
6. Common international law and treaties relating to jurisdiction of capitulary courts.

7. International administrative union conventions. [It would probably be found that there exist several hundred bi-national obligations for the submission of disputes, few of which are so definite and inclusive as not to be open to evasion.]

II. Relative values of courts.

a. By reference to possibility of reference in place of negotiation (see A-II-d, above).

1. Domination of great powers in negotiations with smaller (as revealed by checking results of negotiations against fixed policies of parties).

2. Dilatory tactics in submission and trial (see also A-III-a-1).

3. Cases of resort to arbitration to escape diplomatic humiliation.

b. By reference to number of umpires (see also B-II-k, below).

1. Frequency of choices of judges by nondisputants.

2. Surveys of diplomatic utterances in connection with negotiation of treaties and submission of cases.

3. Actual influence of umpires (see B-II-k, below).

c. By reference to types of judges.

1. Types of judges in various courts (diplomats, jurists, etc.).

2. Evidences of satisfaction or discontent with same.

d. Panel versus permanent bench courts.

1. Variations in types of judges in past (see B-II-e).

2. Delay.

(a) In taking up cases.

(1) Crowded dockets (claims courts).

(2) Elaborate preliminary steps (panel courts).

(b) In deciding cases.

(1) Burden of work in court (claims courts).

(2) Bad procedure (panel courts).

e. Connections with administrative bodies.

1. Influence of League on functioning of League Court.

(a) Influence of League in action by Court in taking jurisdiction of cases brought to it, or vice versa.

(b) Influence of League or members on opinions rendered by court.

2. Influence of administrative unions on their tribunals (as under 1-(a) and (b)).

f. Terms of judges.

1. Survey of facts.

2. Repeated elections of same individuals under panel system; facts and significance.

3. Detachment (judicial attitude) of panel and permanent bench courts in particular cases.

4. Effect of experience of judges on knowledge of law and arbitral procedure.

5. Experiences of national courts, claims courts, and international administrative union courts under these heads.

g. Regional versus world courts.

1. Evidences of regional law in decisions of regional courts (Central America; Chinese).

2. Evidences of Continental antipathy toward Anglo-American influence in world courts.

3. Corrections of former by representation of regions on world courts.

h. Accessibility.

1. Legal.

(a) Relative accessibility of bi-lateral, regional, Hague, and League courts to signatories and others.

(b) Relation to B-II-g.

2. Physical; influence of distance and expense.

i. Procedural difficulties.

1. Comparison of existing courts.

(a) Convention code of procedure.

(b) Compromise code of procedure.

(c) Rules fixed by court.

(d) Actual differences in rules.

2. Difficulties in the past.

(a) Over-rigidity.

(b) Indefiniteness.

(c) Concrete difficulties.

j. Part played by private law in international adjudication.

1. As measured by references to same in awards.

2. References to same in pleadings.

3. Importance of same.

(a) Conflicts settled by rules of jurisdiction.

(b) Assistance of rules of general jurisprudence.

(c) Help of counsel briefs and pleadings.

k. Part played by umpires.

1. Definition.

(a) Choice of nonnational by party to the dispute.

(b) Choice of nonnational by agreement of both parties.

(c) Choice of nonnational by nonparty at request of parties.

2. Decisions by umpires. [It was found that in fourteen cases decided by the Hague Court there had been only one case of dissent by a national representative on a tribunal.]

1. Decisions compromises or not?
1. Numbers of distinct points in cases.
2. Decision of different points clear but for different parties.
3. Dependence of this point on soundness or unsoundness of decision in mind of student.

m. Relation of arbitration to law.

1. Points of law and fact.
 - (a) Points of fact.
 - (b) Points of law.
 - (c) Legal facts.
2. Control of agreements for submission, general and special.
3. Performance.
 - (a) Meaning.
 - (1) Result in accord with law.
 - (2) Decision made purposely by law.
 - (b) Indicia.
 - (1) Citation of treaties.
 - (2) Citation of precedents.
 - (3) Citation of treatises.
 - (4) Language of court.
 - (5) Actually in accord with preëxisting law.
 - (6) Collateral evidences of fraud, coercion, etc. [It was ascertained out of forty points involved in the fourteen Hague cases there were thirty points of law, and that all were decided according to law in the eyes of the court.]

III. Securing submission of cases.

PITMAN B. POTTER.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

EDITED BY FREDERIC A. OGG

University of Wisconsin

Professor R. T. Crane, of the University of Michigan, is spending his sabbatical year in research and writing in California. He will give courses in the summer quarter at Stanford University on political parties and American political theory.

Judge Edmund C. Mower, professor of law and government at the University of Vermont, will give courses in constitutional law and European governments at the summer session of Northwestern University.

Professor P. Orman Ray, of Northwestern University, will give courses in American national government, and political parties and politics at the summer session of the University of Southern California.

Professor Graham H. Stuart has returned to his work at Stanford University after a six-months' study of the government of Peru for the Carnegie Institution.

Mr. Glenn E. Hoover, who holds a doctor's degree from the University of Strasbourg, has been appointed assistant professor of economics and political science in the University of Oregon.

Professor John P. Comer, of Southern Methodist University, Dallas, Texas, has resigned to accept an assistant professorship of government at Williams College.

Professor Pitman B. Potter, after a semester's leave of absence in Europe, has resumed teaching at the University of Wisconsin.

The department of political science and sociology at the University of Nebraska has been divided and a separate department of political science established.

Professor James W. Garner, of the University of Illinois, has been honored by the French government, as a chevalier in the Legion of Honor.

Governor Pierce, of Oregon, has appointed a committee to formulate a plan for the reorganization of the state administration, to be submitted to this winter's session of the legislature.

The California Academy of Social Sciences held its annual meeting at Berkeley on December 19-20.

The University of Chicago announces the second Institute under the Norman Wait Harris Memorial Foundation to continue from June 30 to July 24, 1925. Problems of the Far East will be considered, and lecturers from Japan, China, and Australia are expected. The Institute will consist of public lectures and round table conferences; and at the same time the University summer session will offer courses on subjects related to the Far East. Representatives of several of the departments at Washington are planning to attend. Each Institute of the Harris Foundation will concentrate on some one international problem, the small states of Europe having been proposed for 1926. Correspondence relating to the Institute may be addressed to Professor Quincy Wright, University of Chicago.

The Social Science Research Council met in Chicago, November 29. The principal business was the consideration of the report of the Committee on Research Fellowships, under the chairmanship of Professor A. B. Hall. This report, which was adopted by the Council, contained detailed provision for the organization of the machinery of fellowship awards. Reports were received also covering the work of the committee on Scientific Aspects of Human Migration, Miss Edith Abbott, Chairman; and from the committee on International News and Communication, Walter S. Rogers, Chairman. Other committees reporting were those on abstracts of social science periodical literature, Professor F. S. Chapin, Chairman, and on the printing of an annual digest and index of state session laws, Professor J. P. Chamberlain,

Chairman. The report of the committee on human migration contained, among other projects of research, a plan for an investigation of immigration laws and their administration in the United States and Canada, formulated by Professors J. A. Fairlie and F. A. Ogg.

At another meeting of the Social Science Research Council, held in Chicago, December 31, 1924, announcement was made of a series of research fellowships in the social sciences, provided by the Laura Spelman Rockefeller Memorial. These will be awarded on the recommendation of a committee consisting of Wesley C. Mitchell of Columbia University, chairman, Charles E. Merriam of the University of Chicago, and F. Stuart Chapin of the University of Minnesota, secretary. Applications should be made to the secretary of the committee not later than March 1, 1925, and fellowships will be awarded on or about May 1.

Annual Meeting. The twentieth annual meeting of the American Political Science Association was held at Washington, D. C., December 29-31, 1924. The registration was 136, and the number of members actually in attendance was probably not less than 160. Attendance at the various sessions was, without exception, excellent. Departing from custom, the Association met apart from both the American Historical Association and the American Economic Association. The American Association for the Advancement of Science, the American Psychological Association, and the American Association of University Professors, were, however, in session in Washington during the same period, and a joint session was held with the Psychological Association, and another with Section K of the Association for the Advancement of Science. A smoker was tendered the members of the Association by the Robert Brookings Graduate School of Economics and Government, whose courtesy in this respect, and in other important ways, was heartily appreciated. By way of experiment, the three forenoons were given over to meetings of round tables, and the plan proved so successful that it is likely to be continued in future years. All in all, the meeting was considered one of the best in the history of the Association.

The formal program, as carried out, was as follows:¹

¹ Several of the papers, and also synopses of the work of the round tables, will be printed in the *Review*.

MONDAY, DECEMBER 29

9:30 a.m. Meeting of the Executive Council and Board of Editors.

10:00 a.m. Round Table Meetings. 1. Politics and Psychology, L. L. Thurstone, University of Chicago, director. Formulation of research problems in the science of politics involving psychological factors. The object is to outline the methods that may prove suitable for investigating one or more problems of common interest to the sciences of politics and psychology. 2. Comparative Government, Walter J. Shepard, Robert Brookings Graduate School of Economics and Government, director. A survey of significant events and of recent progress made by foreign scholars in this field; an intensive discussion of the results of the various systems of proportional representation. 3. Public Administration, W. F. Willoughby, Institute for Government Research, director. The general problem of overhead control, including (among other topics) central organs of general administrative control, central control of personnel, central control of financial affairs, central administrative control in the judicial branch, and central control of purchasing. 4. International Affairs, E. D. Dickinson, University of Michigan Law School, director. Recent contributions, research and teaching methods, and intensive discussion of the topic "Participation by the United States in International Coöperation." 5. Political Parties, Raymond Moley, Columbia University, director. The nature and implications of party responsibility. 6. Political Statistics, Arthur N. Holcombe, Harvard University, director. A continuation of the discussion of the round table on this subject at the Second National Conference on the Science of Politics.

12:30 p.m. Subscription Luncheon. Presiding officer: Ellery C. Stowell, The American University. The Modernization of International Law, George Grafton Wilson, Harvard University. Discussion by Charles G. Fenwick, Bryn Mawr College, and others.

3:00 p.m. Public Personnel Administration. Presiding officer: Honorable W. G. Deming, President of the United States Civil Service Commission. The Dark Side of Municipal Civil Service, Harry G. Marsh, Secretary of the National Civil Service Reform League. The Function of the Personnel Agency in the Public Service, Oliver C. Short, Secretary of the State Employment Commission of Maryland. Research in the Technique of Testing, L. J. O'Rourke, Director of Research Division, United States Civil Service Commission. The Status of the Civil Servant in the Modern State, Herman Finer, London School of Economics and Political Science.

8:00 p.m. International Relations. Presiding officer: Honorable David Jayne Hill, Washington, D. C. British Policy and the Balance of Power, The Right Honorable Sir Esme Howard, K. C. B., Ambassador of Great Britain to the United States. Limitations upon National Sovereignty in International Relations, James W. Garner, University of Illinois, President of the American Political Science Association.

TUESDAY, DECEMBER 30

10:00 a.m. Round Tables, as on preceding day.

12:00 p.m. Subscription Luncheon. Presiding officer: Jeremiah S. Young, University of Minnesota. The Second National Conference on the Science of Politics, Arnold B. Hall, University of Wisconsin (read by V. J. West, Stanford University). Report of the Committee on Political Research. Charles E. Merriam, University of Chicago.

2:00 p.m. The Psychological Basis of Conservatism and Radicalism. (Joint Session with the American Psychological Association. Presiding officer: Robert S. Woodworth, Columbia University. Intellectual and Emotional Factors in Radicalism, Henry T. Moore, Dartmouth College. The Doctrine of Power and the Conflict of Parties, George E. G. Catlin, Cornell University. The Measurement and Motivation of Atypical Opinion in a Certain Group, Floyd H. Allport, Syracuse University.

4:30 p.m. Annual Business Meeting of the Association. Presiding officer: James W. Garner, University of Illinois. Annual Report of the Secretary-Treasurer and the Managing Editor of the American Political Science Review. Reports of standing and special committees. Election of officers for 1925.

8:00 p.m. Some Phases of Public Law. Presiding officer: James W. Garner, University of Illinois. The State and the Nation: Constitution vs. Constitutional Theory, Edward S. Corwin, Princeton University. Discussion by Thomas Reed Powell, Columbia University. Minority Decisions and the Supreme Court, Charles Warren, Washington, D. C.

WEDNESDAY, DECEMBER 31

10:00 a.m. Round Tables, as on previous days.

11:30 a.m. General Session. Presiding officer: Quincy Wright, University of Chicago. Impediments to Historical Science. Albert F. Pollard, University College, University of London.

12:30 p.m. Subscription Luncheon. Presiding officer: Benjamin

F. Shambaugh, University of Iowa. The Elections of 1924, Arthur N. Holcombe, Harvard University. Discussion by Arthur W. Macmahon, Columbia University, and Albert Bushnell Hart, Harvard University.

3:00 p.m. Trade, Administration, and Population. (Joint Session with Section K, American Association for the Advancement of Science.) Some Phases of British Administrative Legislation, John A. Fairlie, University of Illinois. The Ethics of Trade Organization, George Frederick, Business Bourse, New York City. Analysis of the Trend of Our Foreign Trade, H. C. Campbell, Acting Chief, Division of Research, U. S. Department of Commerce. Population Problems of South America, William A. Reid, Pan American Union, Washington, D. C.

The executive council and board of editors held an extended session on the opening day of the meeting, and the annual business meeting of the Association was held on the afternoon of the second day. The report of the Secretary-Treasurer on the membership and finances of the Association may be summarized as follows:

I. Membership

Accessions during the year.....	180
Resignations and cancellations.....	127
Net gain in membership.....	53
Number of members paying annual dues.....	1469
Number of life members.....	52
Total membership.....	1521

Various methods employed to obtain new members were described, and the hope was expressed that members generally will see that persons who would be likely to be interested in the work of the Association are invited to join, or, at all events, that their names are reported to the Secretary of the Association.

II. Finances

1. Balance, December 15, 1923.....	\$609.71
2. Receipts, December 15, 1923 to December 15, 1924	
Dues for 1922 and 1923.....	\$238.00
Dues for 1924.....	4352.90
Dues for 1925 and 1926.....	816.40
Voluntary contributions for the support of the	
<i>Review</i>	633.00
Sale of publications.....	208.45
Advertising.....	290.00
Royalties.....	6.70

Payment by National Conference on the Science of Politics for publication of report and reprints	277.15	
Total receipts.....		6848.60
Total balance and receipts.....		\$7458.31
3. Disbursements		
Bills paid for 1923.....	\$114.81	
Williams & Wilkins Co. Baltimore (printing and distributing the <i>Review</i>).....	4950.73	
Clerical and stenographic assistance, office of secretary-treasurer.....	380.60	
Clerical and stenographic assistance, office of managing editor.....	465.00	
Expenses of book review editor.....	13.47	
Postage, office of secretary-treasurer.....	145.00	
Stationery and printing.....	256.65	
Expense of program committee.....	51.03	
Preparation of legislative notes.....	50.00	
Dues to American Council of Learned Societies.....	75.00	
Filing cabinet.....	19.95	
Miscellaneous.....	38.74	
Total disbursements.....		\$6561.98
Balance December 15, 1924.....		896.33
4. Trust fund		
City of Madison, Wis., 5½ per cent special street improvement bonds, purchased February 11, 1924, due April 1, 1928, @ \$101.00 and accrued interest, total cost \$1278.33, par value.....	\$1200.00	
Balance deposited after buying bonds.....	70.96	
Interest deposited 12/15/24.....	66.00	
Receipts from life members during 1924.....	105.00	
Total (without accrued interest on bonds).....		\$1441.96

Estimates were presented for the year 1925, showing balance and probable receipts aggregating \$8329; disbursements (including a ten per cent increase of expenditure on the *Review*) aggregating \$7063; and a balance December 15, 1925, of \$1266.

The treasurer's accounts were audited by a committee consisting of Professors V. J. West and B. F. Shambaugh, and were reported complete and correct. On recommendation of the executive council, it was voted that the practice of billing members for five dollars, with explanation that payment of the additional dollar for the support of the *Review* is optional but desirable, should be continued in 1925.

Through Professor W. B. Munro (in the absence of the chairman, Professor P. O. Ray), the committee on instruction presented a report on state legislation requiring the teaching of the constitution, or American government and ideals, and submitted with it a draft of a model

law on this subject. The report was ordered to be printed for consideration by the members of the Association.²

The American Council of Learned Societies Devoted to Humanistic Studies, having been incorporated under the laws of the District of Columbia, asked the constituent societies to ratify a revised constitution, differing in minor ways only from the original instrument. The request was complied with by the Political Science Association. It was announced that the American Council is now in a position to proceed with several important projects—in particular, the preparation of a twenty-volume Dictionary of American Biography, made financially possible by a subvention of a half-million dollars recently tendered by the New York Times Company. The preparation and publication of the Dictionary will be under the immediate direction of a committee composed of four representatives of the American Council of Learned Societies, two appointees of the New York Times Company, and a managing editor to be chosen by these six persons.

Another interesting announcement was made by the Association's representatives in the Social Science Research Council, to the effect that the Laura Spelman Rockefeller Memorial has agreed to provide a substantial sum of money to be used, beginning in 1925-26, for research fellowships of an advanced character in the field of the social sciences.

In view of the improved financial condition of the Association and the continued pressure for space in the *Review*, the managing editor was authorized to permit the issues in 1925 to attain an average, if necessary, of as much as 240 pages.

Officers for 1925 were elected as follows: President, Charles E. Merriam, University of Chicago; First Vice-President, A. R. Hatton, Western Reserve University; Second Vice-President, Raymond L. Moley, Columbia University; Third Vice-President, Charles G. Haines, University of Texas; Secretary-Treasurer, Frederic A. Ogg, University of Wisconsin. Newly elected members of the Executive Council for the term ending in 1927 are: F. G. Bates, Indiana University; John Dickinson, Harvard University; Luther H. Gulick, New York City; F. A. Middlebush, University of Missouri; and Bruce Williams, University of Virginia. On the Board of Editors, Edward S. Corwin is succeeded by Victor J. West.

The place of meeting of the Association in 1925 was left to decision of the Executive Council. Announcement will be made in the May issue of the *Review*.

² Copies may be secured on application to the Secretary of the Association or the chairman of the committee, Professor P. O. Ray, Northwestern University, Evanston, Ill.

DOCTORAL DISSERTATIONS IN POLITICAL SCIENCE

IN PREPARATION AT AMERICAN UNIVERSITIES¹

COMPILED BY FREDERIC A. OGG

University of Wisconsin

AMERICAN GOVERNMENT AND PUBLIC LAW

- T. Bardizian*, A.B., Chicago, 1919; A.M., *ibid.*, 1921. The Recent Immigration Policy of the United States. *California*.
- Orval Bennett*, A.B., Indiana, 1915; A.M., *ibid.*, 1917. The Federal Trade Commission. *Brookings Graduate School*.
- Forrest R. Black*, A.B., Wisconsin, 1916; A.M., Colorado, 1919; LL.B., Ohio State, 1920. The War Power and the Need of Constitutional Clarification. *Brookings Graduate School*.
- Earl C. Campbell*, A.B., California, 1923; A.M., *ibid.*, 1924. The Direct Primary in California. *California*.
- Daniel B. Carroll*, A.B., Illinois, 1915. The Unicameral Legislature in Vermont. *Wisconsin*.
- J. G. Cerwin*, A.B., Dartmouth, 1919; A.M., Columbia, 1920. Federal Water Power Legislation. *Columbia*.
- Esther W. Cole*, A.B., Peru Teachers' College, 1924. Legislative Commissions of Inquiry and Investigation. *Nebraska*.
- J. P. Comer*, A.B., Trinity, 1907; A.M., Columbia, 1915; The Legislative Functions of Federal Administrative Authorities. *Columbia*.
- Edith Dobie*, A.B., Syracuse, 1914; A.M., Chicago, 1922. The Political Career of Stephen M. White. *Stanford*.
- Elmo C. Dopkins*, A.B., Wisconsin, 1920; A.M., *ibid.*, 1921. Influence of Party Platforms on National Legislation. *Wisconsin*.
- E. J. Eberling*, A.B., Syracuse, 1918; A.M., *ibid.*, 1920. Legislative Investigating Committees of New York State. *Columbia*.
- William H. Edwards*, A.B., Ohio State, 1923. State Reorganization in Minnesota. *Brookings Graduate School*.
- Susan Elrick*, Ph.B., Chicago, 1923. Administrative Regulations. *Chicago*.
- Carl H. Erbe*, A.B., Iowa State Teachers' College, 1920; A.M., University of Iowa. Studies in the Constitution of Iowa. *Iowa*.
- Russel H. Ewing*, A.B., Minnesota, 1923; A.M., Columbia, 1924. The Limits of Judicial Discretion. *Minnesota*.

¹ Similar lists have been printed in the *Review* as follows: IV, 420 (1910); V, 456 (1911); VI, 464 (1912); VII, 689 (1913); VIII, 488 (1914); XIV, 155 (1920); XVI, 497 (1922).

- Charles Fairman*, A.B., Illinois, 1918; A.M., *ibid.*, 1920. The Law of Martial Rule and of the Use of Troops in the Aid of Civil Authorities. *Harvard*.
- F. S. Fitzpatrick*, A.B., Trinity (Conn.), 1914. Business Men's Associations and Politics. *Columbia*.
- George B. Galloway*, A.B., Wesleyan, 1920; A.M., Washington University, 1924. The Investigative Function of Congress as a Means of Control. *Brookings Graduate School*.
- R. L. Garis*, A.B., Virginia; A.M., *ibid.* America's Immigration Policy. *Columbia*.
- John J. George, Jr.*, A.B., Washington and Lee, 1920; A.M., Chicago, 1922. Reorganization of State Administration in Ohio. *Wisconsin*.
- William B. Graves*, A.M., Cornell, 1921. Distribution of Power between Central and Field Authorities in Federal Administration. *Pennsylvania*.
- John G. Heinberg*, A.B., Washington University, 1923; A.M., *ibid.*, 1924. The History and Theory of Majority Rule. *Brookings Graduate School*.
- E. A. Helms*, A.B., Illinois, 1922; A.M., *ibid.*, 1923. The Eighteenth Amendment. *Illinois*.
- A. V. Johnston*, A.B., Augustana College, 1911; A.M., Minnesota, 1915. The Constitutional and Legal Aspects of Prohibition. *Minnesota*.
- John C. Jones*, A.B., Transylvania, 1911. The Tendency Towards Centralization of the American Federal Government. *Brookings Graduate School*.
- Dexter M. Keezer*, A.M., Cornell, 1923. The Place of the Supreme Court in the Economic Order. *Brookings Graduate School*.
- Horace J. Knowlton*, A.B., Utah, 1921; LL.B., *ibid.*, 1923. The Office of Attorney General. *Chicago*.
- Nelson C. Lang*, A.B., California, 1921. The Federal Corrupt Practices Acts. *California*.
- C. G. Langeluttig*, A.B., Johns Hopkins, 1922. The United States Department of Justice. *Johns Hopkins*.
- Frank J. Laube*, B.L., Wisconsin, 1899; A.M., *ibid.*, 1913. Relations of State to Local Government in Washington. *Chicago*.
- J. H. Leek*, A.B., Millikin; A.M., Illinois. The State Legislative Reference Bureau; a Comparative Study. *Pennsylvania*.
- K. D. Leigh*, A.B., Bowdoin, 1914; A.M., Columbia, 1915. Federal Public Health Administration in the United States. *Columbia*.
- Buel Leopard*, B.S., Missouri, 1917; A.M., *ibid.*, 1919. The Government and Politics of the State of Missouri. *Brookings Graduate School*.
- H. H. Lou*, A.B., Peking University, 1922; A.M., Columbia, 1923. Juvenile Courts in the United States. *Columbia*.
- K. D. Lum*, A.B., University of Hawaii, 1922; A.M., Columbia, 1923. Evolution of Government in Hawaii. *Columbia*.
- Ada McCowan*, A.B., Reed College, 1915; A.M., Columbia, 1921. Conference Committees in Congress. *Columbia*.
- Harry Moore*, A.B., Reed College, 1917; A.M., George Washington, 1923. The Socialization of Medicine. *Brookings Graduate School*.
- Oliver E. Norton*, A.B., College of the Pacific, 1921. The Direct Primary in California. *Stanford*.
- P. H. Odegard*, A.B., University of Washington, 1922; A.M., *ibid.*, 1923. The Anti-Saloon League. *Columbia*.

- Marie O'Donell*, A.B., Trinity, 1919; A.M., Columbia, 1921. The Senate Committee on Foreign Relations. *Columbia*.
- Constantine M. Panunzio*, A.B., Wesleyan, 1911; A.M., *ibid.*, 1912. The Passing of Immigrants' America. *Brookings Graduate School*.
- J. E. Pate*, A.B., Louisiana, 1916; A.M., Wake Forest, 1917; A.M., Virginia, 1921. The Legislature of Virginia; its Organization and Procedure. *Johns Hopkins*.
- Roy V. Peel*, A.B., Augustana College, 1920; A.M., Chicago, 1923. Blaine as a Political Leader. *Chicago*.
- J. K. Pollock*, A.B., Michigan, 1920; A.M., *ibid.*, 1921. Party Finance. *Harvard*.
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- Vedasto J. Samonte*, A.B., Iowa, 1922; A. M., *ibid.*, 1923. The American System of Colonial Administration. *Iowa*.
- Fred D. Shelton*, A.B., Drury, 1916. The Influence of Group Organization on the American System of Representative Government. *Brookings Graduate School*.
- Hazen D. Smith*, A.B., Nebraska, 1923. The Power of Pardon and Parole in the United States. *Nebraska*.
- Margaret Spahr*, A.B., Smith, 1914; A.M., Columbia, 1919. Economic Theories in Supreme Court Tax Decisions. *Columbia*.
- Harold H. Sprout*, A.B., Oberlin, 1923. The Judicial Determination of Facts that are Material to Questions of Constitutional Validity. *Wisconsin*.
- Marrietta Stevenson*, A.M., Chicago, 1920. Bryan as a Political Leader. *Chicago*.
- Frank M. Stewart*, A.B., Texas, 1915; A.M., *ibid.*, 1917. Highway Administration, with Special Reference to Texas. *Chicago*.
- Roger J. Traynor*, A.B., California, 1923; A.M., *ibid.*, 1924. The Amending System of the United States Constitution. *California*.
- H. A. Van Dom*, A.B., Grinnell, 1918; A.M., Columbia, 1920. Government Owned Corporations. *Columbia*.
- F. West*, A.B., Ohio Wesleyan, 1918; A.M., *ibid.*, 1919. The Political Power of the President.
- E. C. Wynne*, LL.B., California, 1911; A.B., Harvard, 1917. The Legal Status of Radio. *Harvard*.

MUNICIPAL AND LOCAL GOVERNMENT

- Norman W. Beck*, A.B., Chicago, 1923. Municipal Reporting. *Chicago*.
- Mildred C. Dispensa*, Ph.B., Chicago, 1918. The Inspection Service of the City of Chicago. *Chicago*.
- C. F. Huo*, A.B., Michigan, 1924. Expansion of Municipal Activities during the Last Quarter Century. *Harvard*.
- Chun Gi Kwei*, A.B., Ohio Wesleyan, 1922; A.M., Columbia, 1923. The Growth, Purposes, and Control of Municipal Debts. *New York University*.
- Bryce E. Lehman*, A.B., Minnesota, 1923; A.M., *ibid.*, 1924. City and County Consolidation. *Minnesota*.
- C. W. MacKenzie*, A.B., Dartmouth, 1920; A.M., Columbia, 1921. Tendencies in the New Hampshire Town Meeting. *Columbia*.

- George H. McCaffrey*, A.B., Harvard, 1912; A.M., *ibid.*, 1913. The Projected Consolidation of Cities and Towns in the Boston Metropolitan District. *Harvard*.
- James R. McVicker*, A.B., Iowa, 1911; A.M., *ibid.*, 1912. A Study of the Administration of Justice in the Iowa County. *Iowa*.
- M. C. Mitchell*, A.B., Geneva College, 1911. Assessment of Property for Taxation in American Cities. *Harvard*.
- R. L. Olson*, A.B., South California, 1918; J.D., *ibid.*, 1922. The Relation of Southern Californian Cities to Colorado River Water Supply Projects. *Harvard*.
- Winslow Porter*, LL.B., Missouri, 1909; S.B., Boston, 1923; Municipal Revenue from Public Utilities in United States. *Harvard*.
- J. T. Salter*, A.B., Oberlin, 1921. The Operation of the Non-partisan Ballot in Third Class Cities in Pennsylvania. *Pennsylvania*.
- J. T. Sly*, A.B., Iowa State Teachers' College, 1917; A.M., University of Iowa, 1921. Contemporary Town Government in New England. *Harvard*.
- M. V. Smith*, A.B., Pomona, 1923. Municipal Censorship of Public Amusements, especially of Motion Pictures. *Harvard*.
- Robert E. Taylor*, A.B., Michigan, 1912; A.M., *ibid.*, 1913; LL.B., St. Louis, 1913; LL.M., *ibid.*, 1920. Municipal Budget Systems. *Chicago*.
- S. C. Wallace*, A.B., Columbia, 1919; A.B., *ibid.*, 1920. State Administrative Control over Cities. *Columbia*.
- Harold Zink*, A.B., Denver, 1921; A.M., *ibid.*, 1923; S.T.B., Boston, 1923. A Psycho-Biographical Study of Municipal Bosses in the United States. *Harvard*.

FOREIGN AND COMPARATIVE GOVERNMENT

- Gladys Blakey*, A.B., Knox, 1912; A.B., Vassar, 1913; A.M., Minnesota, 1916. Preferential Tariffs in the British Empire. *Minnesota*.
- William Casey*, A.B., James Millikin University. Recent Party Developments in Great Britain. *Illinois*.
- C. Y. Cheng*, A.B., Peking, University, 1913; A.M., Columbia, 1923. Schemes for Imperial Federation. *Columbia*.
- W. H. Chiao*, A.B., Wisconsin, 1920; A.M., *ibid.*, 1922. Devolution in the British Empire. *Columbia*.
- A. G. Dewey*, A.B., McGill, 1911; A.M., *ibid.*, 1913. Canada and the Britannic Question. *Columbia*.
- Maximo M. Kalaw*, A.B., George Washington University, 1916. Philippine National Politics, 1872 to 1921. *Michigan*.
- C. H. Kan*, A.B., Wisconsin, 1922. Some Political Aspects of the French Budget. *Harvard*.
- Gerda Richards*, A.B., Smith, 1922; A.M., Radcliffe, 1923. The Development of Political Parties in the Reign of George III. *Harvard*.
- Allan F. Saunders*, A.B., Amherst, 1918; A.M., Wisconsin, 1920. The Government of Scotland. *Wisconsin*.
- C. Y. Shill*, A.B., Minnesota, 1924. Interstate Law in Ancient China. *Minnesota*.

INTERNATIONAL LAW AND INTERNATIONAL AFFAIRS

- Bernabe Africa*, LL.B., Southern California, 1917; LL.M., Michigan, 1924. Political Offenses in Extradition. *Michigan*.
- Dennis D. W. Brane*, A.B., Otterbein College, 1921. Official International Unions, 1856-1914. *Harvard*.
- H. A. Briggs*, A.B., West Virginia, 1921. The Doctrine of Continuous Voyage. *Johns Hopkins*.
- Ming K. Chao*, A.B., Cornell, 1922; A.M., *ibid.*, 1923. Joint Action of Foreign Powers in China. *Harvard*.
- Jay Cohen*, A.B., College of City of New York, 1918. Development of Prize Law since 1900. *Columbia*.
- William H. Cooke*, A.B., Pomona, 1920; A.M., *ibid.*, 1921. The Caillaux Movement for European Peace. *Stanford*.
- Franklyn D. Daines*, A.B., Brigham Young College, 1906; A.M., Harvard, 1912. The Rhine Policy of France. *California*.
- Clyde Eagleton*, A.B., Austin College, 1910; A.B., Oxford, 1917; A.M., Princeton, 1914. The Responsibility of States in International Law. *Columbia*.
- Luther H. Evans*, A.B., Texas, 1923; A.M., *ibid.*, 1924. International Mandates and the Administration of Backward Areas. *Stanford*.
- George M. Gage*, A.B., Kansas, 1922. Three Factors in the Causation of Modern War. *Stanford*.
- C. Luella Gettys*, A.B., Nebraska, 1920; A.M., *ibid.*, 1921. The Effect of Changes of Sovereignty upon Nationality. *Illinois*.
- L. M. Goodrich*, A.B., Bowdoin, 1920; A.M., Harvard, 1920. *Res Judicata*. *Harvard*.
- N. D. Houghton*, B.S., Missouri State Teachers' College, 1921; A.M., Missouri, 1923. De Facto Governments: A Study in American Policy. *Illinois*.
- Shuhsi Hsu*, A.B., Hongkong University, 1917; A.M., Columbia, 1919. China and her Political Entity. *Columbia*.
- Maria C. Lanzar*, Ph.B., University of the Philippines, 1922; A.M., *ibid.*, 1923. The Anti-Imperialist League. *Michigan*.
- Harold D. Lasswell*, A.B., Chicago, 1923. Phases of International Attitudes. *Chicago*.
- S. H. Lau*, A.B., Shanghai College, 1922. American Foreign Policy in China since 1898. *Chicago*.
- Walter H. C. Laves*, Ph.B., Chicago, 1923. The German Attitude toward Foreign Investments. *Chicago*.
- S. S. Liu*, A.B., Johns Hopkins, 1921; A.M., Harvard, 1923. Extraterritoriality: Its Rise and Decline. *Columbia*.
- Edward B. Logan*, Ph.B., Chicago, 1922. Trans-Pacific Communications. *Pennsylvania*.
- Mildred Moulton*, A.B., California, 1921; A.M., *ibid.*, 1923. The Conference as an Organ of International Government. *New York University*.
- B. C. Randolph*, A.B., Hollins, 1912; A.M., Radcliffe, 1916; Regional Understandings. *Harvard*.
- B. C. Rodick*, A.B., Bowdoin, 1912; A.M., Harvard, 1914. The Doctrine of Necessity. *Columbia*.

- Adolf Solansky*, A.M., Columbia, 1924. *Military Occupation*. *Columbia*.
- M. W. Royce*, A.B., Minnesota, 1919; A.M., Columbia, 1922. *International Law of the Air*. *Columbia*.
- Constant Southworth*, A.B., Harvard, 1915. *The Colonial Venture of France*. *Brookings Graduate School*.
- Irvin Stewart*, LL.B., Texas, 1920; A.B., Texas, 1922. *Consular Privileges and Immunities*. *Columbia*.
- William M. Strachin*, A.B., Michigan, 1912; LL.B., *ibid.*, 1915; A.M., *ibid.*, 1923. *Radio Communication in International Law*. *Michigan*.
- Amry Vandenbosch*, Ph.B., Chicago, 1920. *Dutch Neutrality During the World War*. *Chicago*.
- R. R. Wilson*, A.B., Austin, 1918; A.M., Princeton, 1922. *Compulsory International Agreements*. *Harvard*.
- J. M. Yang*, A.B., Peking University, 1912. *The League of Nations and Opium*. *Columbia*.
- C. Walter Young*, A.B., Northwestern, 1922; A.M., Minnesota, 1924. *Japanese Policy in Manchuria with Special Reference to the Open Door*. *Minnesota*.
- J. F. Zimmerman*, A.B., Vanderbilt, 1913; A.M., *ibid.* *Impressment of American Sailors*. *Columbia*.
- T. Y. Zsce*, A.B., Johns Hopkins, 1921. *China and the Most Favored Nation Clause*. *Columbia*.

POLITICAL THEORY

- Natalye A. Colfelt*, A.B., Vassar, 1921; A.M., Stanford, 1923. *The Political Philosophy of the Progressive Party*. *Stanford*.
- Paul Cuncannon*, A.B., Swarthmore, 1915. *The Political Theories of Theodore Roosevelt*. *Princeton*.
- Ralph Fletcher*, A.B., Washington University, 1924. *The Influence of Racism on Political Thought and Political Action*. *Brookings Graduate School*.
- Clyde W. Hart*, A.B., Millikin, 1915. *Political Theory in American Literature*. *Chicago*.
- Helen D. Hill*, A.B., Bryn Mawr, 1921. *Federalism in Recent Political Theory*. *Chicago*.
- Mary Z. Johnson*, Ph.B., Chicago, 1924. *History of Theory of Democracy since 1848*. *Chicago*.
- Lewis W. Jones*, A.B., Reed College, 1922. *Human Nature and Social Reform*. *Brookings Graduate School*.
- Harry M. Kenin*, A.B., Washington, 1921; A.M., *ibid.*, 1923. *The Political Psychology of the Conservative and the Radical*. *Chicago*.
- Charles R. Layton*, A.B., Otterbein, 1913; A.M., Michigan, 1917. *The Political Thought and Influence of John Bright*. *Michigan*.
- P. G. Neserius*, A.B., University of Washington, 1921; A.M., Chicago, 1922. *Political and Social Ideas in Greek Literature*. *Columbia*.
- Anne Wade O'Neill*, A.M., Clark, 1918. *The Political Theory of Francis Lieber*. *California*.
- Frank Paddock*, A.B., Indiana State Normal, 1916. *English Theories of Functions of Government since 1776*. *Wisconsin*.

- Elbert D. Thomas*, A.B., Utah, 1906. *Ancient Chinese Political Theory*. *California*.
- R. D. Watkins*, A.B., Johns Hopkins, 1922. *The State as a Party Litigant*. *Johns Hopkins*.
- Houston White*, A.B., Davidson, 1921. *The Judicial Theory of Judicial Power*. *Princeton*.
- B. F. Wright, Jr.*, A.B., Texas, 1921; A.M., *ibid.*, 1921. *Natural Law in American Political Theory*. *Harvard*.

LABOR, TAXATION, PUBLIC UTILITIES, AND SOCIAL CONTROL

- Herman C. Beyle*, A.B., Central College, 1912, A.M., Chicago, 1916. *History of Labor Legislation in Ohio*. *Chicago*.
- Anna M. Campbell*, A.B., Illinois, 1920; A.M., Wisconsin, 1923. *Comparative Trade Union Law in America and Foreign Countries*. *Wisconsin*.
- Herbert B. Doran*, A.B., Lawrence, 1919; A.M., Wisconsin, 1920. *Credit of Public Service Companies*. *Wisconsin*.
- H. S. Ephron*, A.B., Toronto, 1923. *Elements of a Labor Party in the American Labor Movements*. *Johns Hopkins*.
- Olga L. Halsey*, A.B., Wellesley, 1912; A.M., *ibid.*, 1916. *Unemployment Insurance*. *Wisconsin*.
- C. M. Kneier*, A.B., Illinois, 1922; A.M., *ibid.*, 1924. *State Regulation of Public Utilities in Illinois*. *Illinois*.
- Sotaro Matsushita*, A.B., California, 1917; A.M., *ibid.*, 1919. *The Political Organization of Labor*. *Harvard*.
- Jan Maria Novotny*, Doctor Juris, Prague, 1921. *Taxation of Unearned Incomes*. *Pennsylvania*.
- Paul A. Raushenbush*, A.B., Amherst, 1920. *Recent Trade Union Development in Germany*. *Wisconsin*.
- Herbert D. Simpson*, A.B., Princeton, 1902; A.M., *ibid.*, 1904. *The Taxation of Public Utilities Corporations*. *Wisconsin*.
- Frank Tannenbaum*, A.B., Columbia, 1921. *The Causes and Wastes of Crime*. *Brookings Graduate School*.

BOOK REVIEWS

EDITED BY W. B. MUNRO

Harvard University

A History of Political Theories, Recent Times: Essays on Contemporary Developments in Political Theory. By STUDENTS OF THE LATE W. A. DUNNING, edited by C. E. MERRIAM and H. E. BARNES. (New York: The Macmillan Company. 1924. Pp. viii, 597.)

This volume of essays forms a fitting memorial to a great political theorist and historian. It is in itself ample justification of the life of the foremost American scholar in this field, were any other necessary than the long list of his distinguished contributions to political literature that are recited in the preface. For the names of his students who have themselves attained distinction show that the seeds of Professor Dunning's scholarship fell on fertile ground. One reflects how fruitful can be the work of a single man, if he be the inspired teacher that was Professor Dunning. But the immediate interest of this volume to students of politics lies in the place it attempts to fill by carrying Professor Dunning's own *History of Political Theories* up to contemporary thought. He himself is reported to have felt that modern political theory in the current of revolt against the state was "radically unintelligible," (p. 313) but his students have happily not been willing to leave the matter there.

Naturally a volume of single essays, contributed even by such distinguished students, must lack the continuity and singleness of view of the master, and is sure to be more or less uneven in quality. In many ways, however, the range of views is a compensation. The editors are to be congratulated, too, upon running even a slender thread of selection through topics that range from the contributions of sociology, social psychology, anthropogeography, and anthropology, through the traditional concerns of political theory such as sovereignty, pluralism, international law, socialist and proletarian theory, all the way to the political implications of recent philosophical thought. There is, unfortunately, an excessive overlapping of the essays, and a tone too largely sociological.

Professor Merriam, who has become the dean of American theorists with the passing of his old master, contributes an introduction to the volume, "Recent Tendencies in Political Thought." It is marked by his usual felicity of insight and broad grasp of the whole field. He propounds the following questions as a guide to the bird's-eye view that, as joint editor with Professor H. E. Barnes, he has had to keep in mind: "What were the outstanding social forces of this period? What were the most conspicuous groups that developed systems of political rationalization? What was the intellectual equipment, the reasoning technique of the various competing groups? What were, more specifically, the ways of arriving at political truths—the methods of political inquiry? . . . And finally, what progress was made in the discussion of what are commonly regarded as the fundamentals of political theory?" (p. 1). These questions supply a key to the rest of the volume, though it is a key which seems to fit very few of the essays that follow.

Depending on one's point of view, it may be thought fortunate or unfortunate that very few of the essays are at all preoccupied with the question of the quantitative and statistical methods (as applied to the technique of political research) to which Professor Merriam has latterly devoted himself. To the reviewer it seems that political theory, although it cannot slight the problem of the methodology of research, is chiefly concerned with a political evaluation of the descriptive material that is properly the concern of the other social sciences, and of the administrative and structural fields of political science. In this respect many of the essays, though they are useful grist for his mill, may seem to the student of theory incompletely assimilated to the field of politics.

In the matter of the impact of philosophical doctrines on political theory, one must be a little astounded—in the face of the evidence to the contrary—by Professor Merriam's assertion that: "It cannot be said that either Bergsonism or Pragmatism exerted a wide influence on the course of political thought in the period under discussion, whatever power they may later wield, or that current political theory made wide use of its (sic) forms or methods" (p. 15). The rest of the volume contradicts this assertion by the frequency with which reference is made to pluralism and to anti-intellectualism, and to the names of Laski, Sorel, Duguit, Pound and others whose method and philosophy are pragmatic in the extreme.

Professor Schneider's interesting summary of the "Implications of

Recent Philosophical Movements" takes a very different view, though he is by no means sure that the conclusions of the political pluralists are based upon a really radical philosophical pluralism. His summary of philosophical tendencies, however, does not issue in a very convincing linkage with political movements. Professor Coker, though, has contributed an admirable essay on "Pluralistic Theories and the Attack on State Sovereignty," which leaves only one regret—that it could not be even further expanded, as it sums up most of the politically important problems broached in the rest of the volume. The same thing can hardly be said for the chapter on juristic theory by Professor Patterson which is characterized by a disproportionate emphasis on the American sociological jurists, to the almost complete exclusion of names like those of Sierke, Berolzheimer, Esmein, Jellinek, who certainly had more of an impact on political theory.

Space and the widely differentiated character of the other essays forbid even the exposition of their main contributions. Some of them follow Professor Barnes' example of attempting little more than a bibliographical summary; but the names of E. M. Borchard, Carlton, J. H. Hayes, Paul H. Douglas, C. E. Gehlke, A. E. Goldenweiser, F. Thomas, F. U. Hankins, and M. W. Willey indicate the generally high level of scholarship that is maintained in the fields to which they contribute. So far as the reviewer knows there is no similar effort to bring together in the compass of a single volume even a sketch of the contemporary contributions made by the studies so germane to politics. The experiment is, on the whole, very successful in providing both teachers and students of modern political theory with a useful text. It should encourage other and more extensive symposia in fields which to a single researcher are almost impossibly vast.

W. Y. ELLIOTT.

University of California.

The Fundamental Concepts of Public Law. By WESTEL W. WILLOUGHBY. (New York. The Macmillan Company. 1924. Pp. xvii, 499.)

Since this book is a convenient introduction to the theory of public law as actually practiced, the reader instantly thinks of the three great English names identified with that subject: Hobbes, Bentham, Austin. There is, it seems, no easy way to connect the dates of those classical writers. Yet a year convenient for Americans to bear in mind—1776—may be taken as a key date. Hobbes' *Leviathan* appeared

a century and a quarter earlier—in 1651. In 1776, Bentham began his career with *A Fragment on Government*. Half a century later—in 1826—Austin gained his opportunity by becoming professor of jurisprudence in the University of London; and soon afterwards he brought from Prussia his rather militaristic conception of law and of sovereignty. It is noticeable, by the way, that in her preface to his *Lectures on Jurisprudence* Mrs. Austin says: “At a very early age Mr. Austin entered the army, in which he served for five years; a fact which would have no place here, but for the permanent traces it left in his character and sentiments. Though he quitted it for a profession for which his talents appeared more peculiarly to fit him, he retained to the end of his life a strong sympathy with, and respect for, the military character as he conceived it.”

Possibly, then, the Austinian theory was not actually made in Germany. However that may be, unquestionably the Austinian theory threw into the placid Anglo-American mind an apple of discord, with results not to be adequately described without mixing metaphors. Not that the practicing lawyers have cared, nor the judges, nor even the authors of those books which are the daily food of the profession. No; for their purposes—save, indeed, when they make a quasi-learned address,—there might just as well have been no Austin. The persons who have cared have been the few teachers of analytical jurisprudence and the many teachers of government.

And so it happens that about a century after Austin's return from Prussia, any teacher of analytical jurisprudence or of government who opens this latest work on the fundamental concepts of public law will ask at the outset whether the author, whose earlier dealings with this subject are well known, should continue to be classed as an Austinian. The answer is, essentially, yes; but not in any slavish sense, for there is ample and acute criticism of terms, and there is also original discussion of the problems raised by the new readjustments of the British Empire and by the mandates under the Treaty of Versailles and by other phenomena of recent history. Thus this book, though not at all heterodox, is independent and timely and interesting.

It is divided into two parts. The first part is devoted to defining fundamental concepts, and the second part is devoted to practical applications. Each part may be read separately, the first appealing to minds enjoying philosophical terminology, and the second appealing to minds having chiefly a lawyerlike quality. Yet surely every one, whatever his personal equation, will profit by the chapters on the

value of juristic political philosophy, on sovereignty, on the federal state, on the United States of America, on territorial jurisdiction, on personal jurisdiction, on extraterritorial jurisdiction, and on the suability of the sovereign.

Finally, it must be emphasized that in discussing the topics named, and all other topics, this book attempts to ascertain what the law is, and not whether there should be any law at all, nor yet what would be an ideal system. As the preface says: "In a volume which the author expects to publish in the near future the various questions relating to the ethical right of the State to exist and the legitimate extent of its authority will be discussed. In the present volume will be considered only those fundamental concepts which are employed by jurists in dealing with the State." In short, the point of view here taken was meant to be—and indeed it is—lawyerlike, or, as an analytical jurist may well prefer to say, juristic.

EUGENE WAMBAUGH.

Harvard Law School.

The Passing of Politics. By WILLIAM KAY WALLACE. (New York: Macmillan Company. 1924. Pp. 323.)

In "The Trend of History" the author traced the growth of the modern political state from its mediaeval origins to its present-day expressions in expansion and conflict. He achieved a readable and suggestive synthesis of the main currents of recent development. In the present work he carries his thesis forward and projects the future of the state upon background of this analysis. "We may thus be in a position to show how politics as the focus of social life has declined; . . . (how) the era of politics is drawing to a close and a new stage is opening before us."

The main portion of the book is devoted to an analysis of the underlying principles of politics—liberty, equality, the various specific "rights" of man—and their relation to modern political institutions on the one hand and a developing economic society on the other. The author considers democracy "a healthy function in that it acts as the dissolving agency of decadent institutions." He indicates the influence of individualism in the breakup of the feudal order and its generalization in the personal theory of the state and the resulting competitive imperialism of recent international politics.

The inadequacy of the democratic state, with its false emphasis on the volitional element in political decisions, to solve the economic

and industrial problems of the community is the major premise of the book. While there is nothing essentially new in the material or the structure of the argument, Mr. Wallace has drawn an interesting and pertinent comparison between the methods of politics and economics. His emphasis upon a shift from an individualistic to a "collective" basis of social theory and action is perhaps his most useful suggestion. "The increase of wealth and of population, of well-being and the normal duration of life . . . are coefficients of the economic efficiency which is transforming the character of social life."

Though his facts are drawn from secondary sources the author has succeeded remarkably well in making his picture unbiased as well as attractive. If he had shown a more adequate acquaintance with others working in this borderland between government and industry—Hobson, Cole, Duguit, Krabbe, Burns, Laski and others—his own contribution would have gained the strength of buttressing authority.

PHILLIPS BRADLEY.

Wellesley College.

The New Governments of Central Europe. By MALBONE W. GRAHAM, JR., assisted by ROBERT C. BINKLEY. (New York: Henry Holt and Company. 1924. Pp. x, 683.)

This excellent volume will be of great service to students interested in comparative government. Although the new constitutions of Europe have been made available in various forms and much has been written in the aggregate about the recent political history of the Central European states, there was need of a treatise which should summarize the main provisions of these new constitutions and the political events which preceded and have followed their adoption. In this book the need has been met with regard to Germany, Austria, Hungary, Czechoslovakia and Yugoslavia. From scattered sources, no doubt a diligent student could learn far more about any one of these states, but it would be difficult, indeed, to indicate a volume in which so much information regarding them is brought within like compass.

The authors very wisely have not undertaken to print again the new constitutions with which revolution has blessed all these states except Hungary. They have, however, supplemented their own summary statement and interpretation of the events of the five-year period following the war by a series of documents which the careful student may use with much profit. Chief among these documents are selec-

tions from the proclamations of the authorities and of the leaders of important groups in times of crisis and programmes announced at intervals by the various political parties. Taken together they trace the principal lines of opinion and action which have given form to the existing governments and parties.

Perhaps the most striking feature of the work is the series of "time charts," one for each of the countries involved and a comparative one for them all, in which the authors attempt a graphic portrayal of political events and especially of party oscillations. Whatever these oscillations may signify and however great the temptation to deduce too much from any particular realignment, the charts are a welcome mechanical aid to the reader. Even with their help, the mass of information is at times a little confusing. Moreover, the comprehensive chart is of special value in the study of "the political cycles from revolution to normalcy" in the new states. Whether we look to Vienna or Berlin, to Belgrade or Prague, we see a certain parallelism of political events and development which the graphic treatment helps to make clear.

A certain caution, however, must be observed in the use of books of this kind. Of necessity they emphasize formal occurrences. Party programs and changes of ministry stand out large. But, even though we admit that such programs issued in Budapest or Munich mean more than platforms published in New York or Cleveland, still they need not be taken too seriously. Social Democrats and Communists have been known to play politics. It will be years before we can weigh accurately events which in this book must be dismissed with a paragraph: if we are ever to weigh them accurately we shall need not paragraphs but volumes. Moreover, the difficulties of compressed statement are only increased when the authors venture, as they occasionally do, into the weighing of personalities and the tracing of causes and effects. These are controversial points, and, if a controversial point is to be treated summarily, it is doubtful wisdom to treat it at all. For instance, the mildly unfavorable opinion of President Ebert, expressed in six lines on page 58, should have been either expanded and defended or not expressed.

But within the inevitable limits, which the authors have in general admirably observed, the book would be hard to improve. It is not a systematic discussion of general problems, but a report on experiments which are now being worked out in the political laboratories of Central Europe. Whoever reads the report with care will gain a

clearer understanding of those experiments and a livelier appreciation of their importance.

H. A. YEOMANS.

Harvard University.

Second Chambers in Theory and Practice. By H. B. LEES-SMITH.
(London: George Allen & Unwin, Ltd. 1923. Pp. 256.)

The Parliament Act of 1911, while reducing the powers of the English House of Lords to those of a mere revising body capable of delaying the passage of other than money bills but not of permanently thwarting the will of the House of Commons, left the question of reform in the composition of the upper chamber unsettled. This question has since remained in the background of English politics. In 1917 a "Conference on the Reform of the Second Chamber" was set up by the prime minister, consisting of thirty members drawn from both houses and all parties under the chairmanship of Lord Bryce. This body made an intensive comparative study of second chambers, with special consideration of those in the self-governing dominions. The subject was later examined by a special Cabinet Committee, whose report was made the basis of a series of government resolutions presented, in 1922, to the House of Lords, where they met a most frigid reception. Here the matter rests for the present, but the subject is of such importance, and the need for reform of some kind is so generally recognized, that it is certain discussion of the subject will be resumed.

In reviewing the evidence presented to the Bryce Conference, which was never published; in independently collecting considerable additional information, in analyzing the data and in presenting his own reasoned conclusions on the problem of second chambers, Mr. Lees-Smith has been primarily concerned with the situation in England. His work constitutes, however, a very valuable addition to the general literature of comparative constitutional law, and will be welcomed by students in this field. The composition, powers, and actual working of the upper chambers in Canada, Australia, New Zealand, South Africa, the Irish Free State, and Northern Ireland, within the Empire, are given careful consideration. Apart from a very brief and inadequate description of the senates of France and the United States, the only other government studied is that of Norway. In his chapter of twenty-five pages on "The Norwegian Second Chambers" is to be found the most interesting and lucid description of the essential features of the government of Norway with which the reviewer is familiar.

The author is only concerned with the character of second chambers in governments of the parliamentary type. His conclusions, therefore, do not apply to systems like that of the United States, where the principle of the separation of powers obtains. In parliamentary governments, he believes, the upper chamber should be constructed on a very simple system. Since it does not possess any share in the control of the executive, its position in the constitution is essentially a subordinate one. Though there may be practical and historical reasons for giving some representation to an hereditary peerage, such an element ought to constitute at most a small fraction of the entire body. Otherwise it must be based on nomination or election. Nomination in a democratic country means selection by the Prime Minister, which experience proves results in purely partisan appointments. It is, therefore, to be condemned. As between direct and indirect election the author believes that the latter is preferable. Direct election not only involves the confusion, labor, and expense of general elections, but tends to develop a claim by the upper chamber to a rival authority with the lower house. Indirect election by local authorities "introduces artificial and unsuitable issues into local politics and fails to give the more advanced parties representation which corresponds to their real strength." This method also tends to elevate the second chamber into a coördinate position with the first. Thus by elimination the conclusion is reached that election by the lower chamber itself is "the only means of securing a second chamber which has a representative character and is, at the same time, quite free from the danger of contesting the authority of the lower house." It was this method which was proposed by the Bryce Conference as the basis for three-fourths of the House of Lords. It has been employed in a number of recent constitutions with apparent success. Whether the Norwegian practice should be followed of not only electing the members of the upper chamber by, but also from the lower house, may be open to question. The election will inevitably be made on party lines. In order that minority parties may receive their due share of the membership the system of proportional representation should be used. The term of members of the upper chamber should coincide with that of the lower, in order to secure its truly representative character.

Such a body is, of course, premised upon the principle that "No second chamber—should be entrusted with the right to defeat legislation. Its proper function is to make suggestions for amendments,

and its power should be confined to securing sufficient delay to ensure that these amendments shall be properly debated, and that sufficient time shall be allowed for the expression of public opinion upon them."

WALTER JAMES SHEPARD.

Washington, D. C.

Government of the West Indies. By HUME WRONG. (New York: Oxford University Press. 1923. Pp. 190.)

Race Problems in the New Africa. By WILLIAM C. WILLOUGHBY. (New York: Oxford University Press. 1923. Pp. 296.)

Christianity and the Race Problem. By J. A. OLDHAM. (New York: George H. Doran Company. 1924. Pp. xx, 279.)

Tropical Holland, An Essay on the Birth, Growth and Development of Popular Government in an Oriental Possession. By H. A. VANCOENEN TORCHIANA. (Chicago: University of Chicago Press. 1921. Pp. xiv, 305.)

This group of works is a welcome addition to the comparatively barren literature on colonial government. Together with Sir Frederick Lugard's *Dual Mandate in Tropical Africa* and the fourth edition of Professor Arthur Girault's *Principes de colonisation et de législation coloniale*, they fill a long-felt lacuna in this field. Mr. Wrong is concerned primarily with the constitutional problems which have arisen in British colonies in the Caribbean. "In the West Indies the student of the constitutional evolution of the British Empire may see the process of change, familiar in the Dominions, from representative to responsible government, reversed by the gradual elimination of elected Assemblies. He may examine here and in Bermuda the only three surviving examples of the old form of colonial representative government, a system which has left its mark deeply on the constitution of the United States, especially in the separation of the powers of executive and legislature. He may study in the early history of British Honduras, and in the surviving example of the Cayman Islands, instances of primitive and spontaneous democracy set up without the sanction of the Crown. He may investigate in the Leeward Islands both a very early and a comparatively recent example of political federation. He may, above all, explore a whole series of attempts to compromise between the grant to the colonies of representative institutions and the grant of full responsible government, the same problem which has recently been faced in a new way and on an infinitely greater scale in India. The field is rich with constitutional

experiments and political devices, tropically luxuriant as the soil of the colonies themselves, with a variety almost alarming in its profusion." Probably the most interesting part of this careful study is the discussion of the failure of representative government—of a legislature elected by the colonists with an executive controlled by the British Crown—in Jamaica. In his opinion, the legislature must rule the executive, or the executive must be able to control the legislature—there is no middle ground (p. 177). At the present time, there is no desire in the colonies for the establishment of responsible government or even for dyarchy. Nevertheless, there has been friction between the executive and the legislature, which he believes might be solved by authorizing the Governor to carry measures by the votes of the official members alone—a suggestion made by Mr. Wood in his report of 1922.

As the title of his book implies, Mr. Willoughby, who has been a principal of the L. M. S. Native Institution, Tiger Kloof, South Africa, is interested more in the racial and social problems of colonial government, than its constitutional side. He devotes most of his book to a study of Bantu life and thought, and the effect upon the Bantu of European contacts. He believes that the annexation of territory by European powers in Africa, was not only inevitable but desirable in order to establish legal checks upon the otherwise unrestrained activities of white filibusters. Probably the most important problem of the government of Africa is the problem of education. "But it must be *proper* education, not mere book-learning. It must strengthen the weak points of Bantu character. Anything that can be learnt by rote or done by simple imitation comes easy to these peoples; but they have never perceived the importance of carefulness, accuracy, and the proper co-ordination of brain, eye, and hand." (p. 183) He does not accept the belief that the negro is inherently indolent. Forced labor is a defective policy because it fails to make industry attractive. The inefficiency of the native is not due to any innate defect of character but to the fact that he is untrained (p. 219). The resentment of the Bantu to European exploitation has taken the form of "Ethiopianism," which has also been stimulated by the fact that under foreign control, the natives "see a freedom and power of which their fathers never dreamt . . ."

According to Mr. Oldham's stimulating study, "the ultimate political problem of the world is how the different races which inhabit it may live together in peace and harmony." While he realizes that

racial prejudices exist, he believes they have their roots in moral rather than in instinctive causes. He is also prepared to admit that there are differences between races and that some races are superior to others. But he points out that up to the present we do not know whether these superiorities are due to racial or to environmental causes. Although races may be different, underlying all these differences there exists a common humanity. He discusses the inter-racial problems which have arisen out of the projection of the white race into the tropics and of the entrance of the colored races, by emigration, into the temperate zones. Imperialism, in his opinion, can be justified only by the policy of trusteeship. If inter-racial peace is to be maintained, an exclusion policy must be established but by means which will not needlessly irritate the colored races. As a general rule, he believes that racial marriages are undesirable; and in some cases a policy of social separation—not of discrimination—is the best means of preventing racial strife. He concludes by stating that the fundamental issues in racial relations are not ethnological or biological, but ethical. He believes, along with Mr. Willoughby, that the Christian Church has a fundamental part to play in solving the problem. While from the standpoint of abstract scholarship the frankly ethical approach to the subject may discount this book with some people, it is nevertheless a very welcome antidote to the outpourings of the racial alarmists who have been afflicting America for the last several years.

In his essay on Tropical Holland, Mr. Torchiana, the Consul General of the Netherlands for the Pacific Coast, has given us a well-written account of the historical development of Insulinde under Dutch control. Despite the abolition of the old culture system, which he does not attempt to justify, Dutch policy has not reached the ideal, as the maintenance of the penal sanction for the violation of labor contracts indicates. However, the natives are being given an increasing participation in the government, through such bodies as the Volksraad. All of the three latter writers are aware of the spread of nationalistic doctrines among the colored peoples; and their comments as to the extent to which the west should recognize these aspirations, are as intelligent as they are interesting.

RAYMOND L. BUELL.

Harvard University.

A History of the Foreign Policy of the United States. By RANDOLPH GREENLEAF ADAMS. (New York: Macmillan Company. 1924. Pp. xv, 490.)

In his preface the author states that he has "felt the need of books on foreign policy which will epitomize the results of research in that field." His work meets that need. The style is that of vigorous conversation, which will add interest for many readers. The outline maps increase the value of the book. Among the illustrations, the faces of Franklin, J. Q. Adams, Marcy, Fish, and John Hay are missing; but one is rewarded by finding the less familiar likenesses of Beaumarchais, Shelburne, C. F. Adams, Drago, Burlingame, Townsend Harris, and Walter Hines Page.

The book surveys in eighteen short chapters the more important events in our foreign relations, beginning with the papal bull of Alexander VI and ending with a quotation from the winner of the Bok peace prize. Time and again the sensitiveness of America to conditions in Europe is noted. On page 21, "George Washington's farewell address may have been a pious hope that America could steer clear of European quarrels, but it certainly was not a statement of that as a fact." Prior to the Revolution the Americans were repeatedly drawn into European conflicts. In the Revolution they brought about a European war. In 1812 and in 1917 the Americans were pulled into the European maelstrom. A chapter each is given to our rivalry with Japan, the open door to China, the Caribbean, and relations with Mexico, while Russian recognition, the Washington Conference, Canadian relations, enemy property, and recrudescing isolation are all touched upon in the last chapter.

Several inexact expressions appear, as on page 27: "the incompetent Duke of Newcastle." J. S. Corbett (*England in the Seven Years' War*) has given us a better estimate of that minister. On page 174: "The Europe of that day was under the domination of an alliance of emperors variously known as the Quadruple Alliance and the Holy Alliance." This shows a failure to differentiate between the two alliances, which is again apparent on page 180, where "Britain's action in withdrawing from the Holy Alliance" is mentioned. On pages 215 and 216 the impression is given that the Americans were largely the losers by the North Atlantic Fisheries Arbitration. On page 244: "England would not admit that the Monroe Doctrine was a part of international law." And on page 245: ". . . she was not yet willing to admit that the Monroe Doctrine was international law,

although in this instance (Venezuela) it was certainly enforced against her." The Monroe Doctrine is a policy and not law in any form. On page 367: "So perhaps the best way to put it is to say that the shipment of contraband is legal unless the neutral shipper gets caught." Getting caught is one of the risks and does not affect the legality of the shipment (see *Northern Pacific Railway Co. v. American Trading Co.* 195 U. S. 439). On page 375: "In international law, it should be repeated, a belligerent war vessel may capture her enemy's trading vessels wherever she can take them on the high seas, but she must take her prize into port and have it condemned in a prize court, thus saving the lives of the crew and passengers." For the circumstances under which enemy merchant vessels may be sunk, see *Instructions for the Navy of the United States*, 1917, section 13, and Scott's *Cases on International Law*: the "Lusitania," 789, the "Cheref," 792, and the "Knight Commander," 793.

The footnotes reveal that the author has rarely examined the sources but has relied largely upon the contributions of American scholars. With these as a background he has depicted in good perspective the national interests and aspirations of the United States. To write the real history of our foreign policy would be an ambitious undertaking. A young man might well set that task for himself as a life work.

CHARLES E. HILL.

George Washington University.

The Monroe Doctrine: Its Importance in the International Life of the States of the New World. By ALEJANDRO ALVAREZ. (New York: Oxford University Press. 1924. Pp. x, 573.)

It is eminently proper that a Latin American publicist should give to the world a book on the Monroe Doctrine, which has had so profound an influence on the destinies of the Latin American states. Having long been a member of several societies interested in international relations and international law and having been a delegate to the Fifth Pan-American Conference, Don Alejandro Alvarez was eminently qualified for this task.

The book is divided into two distinct parts. The first, comprised in three chapters covering 110 pages, gives a "historical and comparative exposition of the ideas of the United States and Latin America with regard to the Monroe Doctrine," the principles of the doctrine and "their importance in the development and the new understanding

of international law," Europe's attitude toward the doctrine in 1923 and since that time, and the cases in which "the United States seems to have disregarded the Monroe Doctrine and hegemony." Of the 110 pages comprised in these three chapters 72 are made up of quotations from source material, taken mainly from Moore's Digest of International Law.

The second part comprises two sets of annexes, the first of which, covering 86 pages, consists mainly of documents taken from Latin American official or semi-official papers. The second is itself divided into two parts: the first, covering 182 pages, giving the opinions of Latin American statesmen and publicists; the second, covering 177 pages, giving like opinions in the United States from John Barrett to Woodrow Wilson. This means that the book may be set down as a source book of origin and development and should be welcomed by students of Monroe's policy; it would have been particularly welcome to the writer, for it contains many documents not elsewhere easily obtainable.

In reading some of the documents one reaches the conclusion that their relation to the Monroe Doctrine is very remote. Any state that has revolted and secured its independence would naturally hold that it was no longer open to colonization and it would be natural for several such neighboring states to think of confederating for defense; but, whatever may have been the personal inclinations of John Quincy Adams, Monroe certainly did not think of confederating with them. The attitude of the Fourth Pan-American Conference toward the Monroe Doctrine is given, but not a word about the way the American delegates shelved the author's proposals at the Fifth Conference, though it was held a year before the book was published. Neither in the official documents nor in the opinions of publicists do we find a word from Haiti, Santo Domingo, or Nicaragua. In the list of publicists quoted we find several names not very well known in North America, but that of Dr. Baltasar Brum is conspicuous by its absence. The list of cases in which the United States has disregarded the doctrine is not complete, and no mention is made of participation by the United States in European affairs or of arbitration of American disputes by Europeans. But these shortcomings, if such they are, are mere incidents in a book which will be of great service to students of the Monroe Doctrine and of Pan-Americanism.

DAVID Y. THOMAS.

University of Arkansas.

The Constitution of the United States—Yesterday, Today and Tomorrow.

By JAMES M. BECK. (New York: George H. Doran Company. 1924. Pp. xiv, 352.)

It must be said at the outset that Mr. Beck's volume has at least one fault and that a very serious one. Even a busy reviewer who picks it up casually, before condemning or commending, is forced to read the book from cover to cover, and then to read it a second time. The interest in Mr. Beck's book, leaving aside the subject (which still appeals to the staid and sedate and other old-fashioned people) is the outcome of a lively imagination, kept in control by sound learning, which it lights up but does not consume.

The federal convention met in May of 1787 in the city of Philadelphia, and finished its labors on September 17 with the Constitution of the United States to its credit. "The business being thus closed," Washington wrote in his Diary, "the members adjourned to the City Tavern, dined together and took a cordial leave of each other." Mr. Beck quotes this passage; he also quotes a "wish" of Dr. Franklin on another occasion that "it were possible to invent a method of embalming drowned persons in such a manner that they may be recalled to life at any period however distant; for, having a very urgent desire to see and observe the state of America a hundred years hence, I should prefer to any ordinary death being immersed in a cask of Madeira wine with a few friends till that time, to be then recalled to life by the solar warmth of my dear country." Mr. Beck takes advantage of the few lines in Washington's *Diary* and of Franklin's "wish" to have the thirty-nine signers of the Constitution take a turn through the City of Philadelphia on the night of the 17th of September 1887, a hundred years later, when a grateful nation was celebrating the success of their labors.

Between the chapters highly imaginative and interesting on "Franklin Gives a Dinner" and "A Century Later," Mr. Beck sketches the federal convention, its organization, its procedure, its difficulties, its compromises, its successes, and even its failures. He makes a great Virginian and a great Pennsylvanian the heroes of the convention and in so doing adds a human touch, rendering the story of the Constitution as fascinating as a novel.

Mr. Beck's volume is not only interesting, it is good and it is timely. It is based upon a minute study of Madison's *Debates in the Federal Convention*, and a careful reading of the other contemporary records. He has frequent words of praise for Luther Martin, delegate from Maryland, who stood like a rock for the rights of the small states

without which it is probable that we should have had no union of the states, certainly no peaceable or successful one. Mr. Beck praises the signers of the Constitution, but he is also fair to its opponents, as is rarely the case. Praise of Washington and Madison, and of Franklin and Wilson, is wholly consistent with justice to George Mason and Luther Martin.

"There is nothing so painful in the world as to think,"—Mr. Joseph H. Choate used to say. Hence we live in the craze of the new with a prejudice against the old because it is old,—and the Constitution is the oldest existing instrument of government. But thanks to its flexibility it is likewise the newest of constitutions. The federal government is a government of equal states in a union of their making, and those states amend the constitution at any time. There is ample room for improvement and for progress, provided the unthinking do commit the folly (against which Marshall sounded a note of warning a century ago) of trying to compound the American people into one common mass instead of leaving them, through their individual states, to exercise wisely their sovereign power. Mr. Beck's book is as a word in season.

JAMES BROWN SCOTT.

Washington, D. C.

The Federal Trade Commission. By GERALD C. HENDERSON. (New Haven: Yale University Press. 1924. Pp. xiii, 382.)

No governmental problem in the United States today commands, and is deserving of, greater attention than the rapid and continuous extension of legal control of social and economic interests, and the consequent employment of administrative agencies, in conjunction with the courts of law, for the application and enforcement of legislative policy. Convinced of the need and opportunity for research in this field, the Legal Research Committee of the Commonwealth Fund, acting upon the recommendation of its special committee on Administrative Law and Practice, has authorized investigations along two different lines: (1) A statutory survey of administrative powers for the purpose of showing the extent to which administrative control has actually been conferred; and (2) A series of intensive studies aimed to reveal the workings of certain administrative organs endowed with such powers of control. The present volume is the first of this latter series to be published.

Mr. Henderson prefaces his treatment of the Federal Trade Commission by expressing a conviction that the Commission has a valuable

and important function to perform, and that its present defects can be corrected by changes of method and procedure or by minor legislative amendments. He excludes from his discussion those functions of the Commission which are not quasi-judicial in character, such as the collection of corporation reports, the conduct of special investigations, and the supervision of export trade associations.

Chapter I is devoted to the history of anti-trust legislation in the United States. The difficulties encountered in the enactment and enforcement of the Sherman Act are explained; the effect of court decisions, particularly in the application of the "rule of reason," is discussed; and the demand for a modification of the law regulating combinations and trusts, which culminated in the passage of the Federal Trade Commission and Clayton Acts in 1914, is analyzed. A thorough review of the legislation of 1914 is undertaken to show that those who had hoped to clarify the law of restraints and monopolies by substituting specific rules of conduct for general principles had largely failed; whereas both statutes were a decided victory for those who doubted the efficacy of legislative codification, and placed their reliance instead upon the development of rules and precedents by the gradual process of interpretation and decision of controversies by administrative and judicial tribunals.

In Chapter II the writer describes the procedure by which the Commission arrives at its findings of fact, and in Chapter III he comments upon, and criticizes, the form and quality of those findings. From the point of view of organization, the Commission's most important and most difficult task is that of maintaining a distinct separation between its prosecuting capacity and its judicial capacity—a task which, in the opinion of Mr. Henderson, the present procedure of the Commission does not enable it to accomplish. The form and content of the Commission's findings are criticized: (a) for their failure to present a fair statement of the respondent's side of a case; (b) because formal findings are made and published only in those cases in which the decision supports the charges of the Commission's complaint; (c) because formal and legalistic phraseology is employed in preference to simple narrative or descriptive statements of happenings and circumstances and signed opinions;¹ and (d) because of the practice of revis-

¹ The writer's views on this point coincide with those expressed by the first chairman of the commission, Hon. Joseph E. Davies. See his discussion of the Federal Trade Commission in a series of lectures delivered before the Bar Association of St. Louis on "The Growth of American Administrative Law" (1923), p. 85.

ing stipulated facts, of omitting matters favorable to respondents, and interpolating findings which are thought to strengthen the Commission's case.

Chapters IV and V present a detailed analysis and criticism of the work of the Commission in handling various types of cases, which are grouped into two major categories: those which involve an element of fraud or dishonesty, and those which involve practices not dishonest, but for some other reason supposed to be restrictive of fair competition. Limitations in the powers and procedure of the Commission are explained, and the value of its contributions estimated.

In conclusion, Mr. Henderson reiterates his conviction that the fundamental policy embodied in the Federal Trade Commission Act is sound, and that the Commission itself is in a position to render services of great value to the business community and to the country as a whole. An appendix contains the complete text of the Federal Trade Commission Act and those sections of the Clayton Act which concern the Commission. Case and topical indexes are offered for the guidance of readers. The entire book gives evidence of thorough and unbiased research. Students of American administrative law will welcome the appearance of other volumes in this series.

LLOYD M. SHORT.

University of Missouri.

American State Government. By JOHN MABRY MATHEWS. (New York: D. Appleton and Company. 1924. Pp. xv, 660.)

Professor Mathews is a recognized authority on state government by reason of his *Principles of American State Administration* (New York, 1917) his articles in the *American Political Science Review* and in other periodicals, and his official researches in connection with the Illinois and Oregon efficiency and economy commissions. The reader, therefore, will expect much of this book and in this expectation he will not be disappointed.

The present volume is more than a mere revision and compilation of Dr. Mathews' earlier writings although naturally he has made considerable use of their contents. *American State Government* starts with the thesis that "neither the national nor the local governments may be profitably studied or thoroughly understood as isolated phenomena without reference to their relations to the states." Hence, "the states occupy a pivotal position and form the most essential part of a study of the whole American governmental system." Accordingly,

the author devotes two chapters to federal and state relations and one chapter, supplemented by four appendices, to local government. As for the other parts of the book, the electorate, the legislature, and the judiciary receive two chapters each, the state constitution one chapter, while the remaining eight chapters deal with the executive, administrative organization, taxation and finance, regulation of business corporations, labor legislation, and other special topics.

Certain features stand out in the writer's treatment of his subject. In the first place, state government is described as a going concern with only a limited amount of historical material included as a background. Particular attention is given to administrative functions and to constitutional and legal questions. Secondly, Professor Mathews not only explains existing institutions but freely criticizes them and offers constructive suggestions. In most cases, these suggestions will meet with general approval but a few of them are more debatable. For instance, while the author believes that the state legislature should be a unicameral body, he is of the opinion that the bicameral legislature might be somewhat reformed "by giving one house the sole power of introducing bills and the other the sole power of passing them" (p. 204). It may well be doubted whether such an arrangement "would promote a concentration of attention by each house upon its special function." Finally, the book is designed to serve the college student and the general reader; in order to facilitate further investigation, selected lists of references are appended to most of the chapters. At the end of the volume are reprinted nine valuable articles on state and local government, including, among other things, the National Municipal League's "Model State Constitution."

American State Government is written in a clear style and with careful attention to details. Nevertheless, there are a number of minor errors. The executive veto, established in South Carolina by the constitution of 1776, was absolute and not qualified (p. 144); it was abolished in 1778. Under the stimulus of federal grants-in-aid, vocational rehabilitation of disabled workmen has been begun in thirty-six states instead of "in a few states" (p. 385). On pp. 163-4, the following statement occurs: "Most new movements and so-called radical ideas which point the way of progress and endanger the hold of the majority political party emanate from the cities, while the rural districts are inclined to be more conservative." It would be difficult to prove this from American history. What shall be said of the "embattled farmers" in their periodic rôle as political Lochinvars? Aside from a

few inaccuracies of this sort, the book deserves high praise and should be ranked with the standard works of Holcombe and Dodd.

ROGER H. WELLS.

Bryn Mawr College.

An Outline of Municipal Government. By CHESTER C. MAXEY. (New York: Doubleday, Page & Company. 1924. Pp. xv, 388.)

Readings in Municipal Government. By CHESTER C. MAXEY. (New York: Doubleday, Page & Company. 1924. Pp. xiv, 627.)

These two volumes by Prof. Maxey make a valuable addition to the textbooks available for college courses in municipal government. In the Preface to the "*Outline of Municipal Government*" the author indicates the limits of his own work when he says, "It is essentially an outline and it is intended to perform somewhat the same function with reference to the study of municipal government that a blueprint does in architecture." To this specification he has strictly adhered. He has produced a simple, clear, brief and substantially accurate outline covering the whole field of municipal government and administration. This volume contributes nothing that is novel in the interpretation of the phenomena with which it deals nor does it offer any information which is not already widely disseminated among mature students of municipal affairs. It is, as it purports to be, a text and nothing more, withal an excellent text of its type. Prof. Maxey belongs to that class of college teachers who believe that a college text should serve as a mere outline base for the course, the details of which are to be supplied by lectures and by reading in what he calls "primary sources." Naturally one of the chief characteristics of such a text is its brevity. The subject of the structure of city government is dealt with in thirty-five pages. The whole matter of "municipal government" including the chapter on the Civil Service, which perhaps properly might be included in the following division of the work, is dealt with in one hundred twenty-seven pages. "Municipal functions," public safety, public works, utilities, welfare, education and so forth get one hundred seventy-two pages. Municipal finance with seventy-six pages receives a relatively greater degree of attention than in other works on municipal government with which this might be compared.

As might be expected under the circumstances, the author's method results in a skeleton treatment of the subject without that body of substantial material which would entitle it to stand alone as an authority on municipal government and administration. Within its limita-

tions, however, the work is excellently done and it will be found exceedingly useful as a textbook. In general the book contains the material which one would expect to find. The author, however, has introduced a chapter on the administration of justice, the inclusion of which in a work on municipal government will meet with some criticism.

The volume of readings presents in convenient and accessible form a considerable body of material otherwise unavailable for student use. It is mostly made up of surveys and reports relating to particular cities or to particular problems. Singularly enough, it contains no selection from any city charter actually in force or from any state law relative to municipal government. This is not the place to discuss what constitutes "source material" in municipal government, but a glance at the Table of Contents of the *Readings* will raise the question in the mind of every student. The selections, however, have been carefully and intelligently made and the two volumes taken together make a thoroughly workable basis for a good course in municipal government and administration. Prof. Maxey has deliberately tried to be useful rather than profound and he is entitled to very great credit for the accuracy and clearness which characterize his work.

THOMAS H. REED.

University of Michigan.

The Political Parties of To-day. BY ARTHUR N. HOLCOMBE. (New York: Harper and Brothers. 1924. Pp. viii, 399.)

The "Riddle of the Parties," runs the caption selected by a contemporary historian for a chapter in which he says: "There seems to be a conspiracy, not of silence, but of volubility, to conceal the real meaning of the parties." Professor Holcombe's book brings valuable assistance to those who would solve the riddle, especially with respect to the Democratic and Republican parties in the politics of the United States; it is essentially an examination and explanation of the composition of these two parties.

At the outset the author gravely questions the fairness of the characterization of the present parties as "empty bottles" in comparison with those of Bryce's earlier days, those observed by De Tocqueville, or even those castigated but employed by the Founding Fathers.

Accepting, at least for the purpose of investigation, the realistic view of party, as did Professor Anson D. Morse—that its immediate end is the advancement of the interests of the particular group or groups which it represents—the author believes that the "ambitious

and realistic politician" would find the issues which he might profitably employ in building up a national party limited to those with which the national government is competent to deal, and that among these the problems of commerce, finance and territory would most vitally concern the greater portion of the population. An appeal must be made to the distinctly economic interests of the citizen.

"From the Land Ordinance of 1785 to the Pre-emption Act of 1841, the Homestead Act of 1862, the Reclamation Act of 1902, and the Conservation Movement of recent times, the problem of land settlement, and the problems which grew out of that problem, afforded more valuable material for effecting partisan combinations than any other subject to which the federal power extends." (p. 33.)

The national politician will naturally place first the interests which control the greatest number of states and congressional districts. Mere numbers, scattered uniformly throughout the country, are relatively useless, hence "national politics is inseparable from sectional politics" (p. 40). "The nature of the American federal system requires the organization of national parties upon a sectional basis" (p. 82). The farmers, manufacturers, factory workers, and miners will constitute the most influential groups politically.

In chapter four Professor Holcombe develops the evidences and illustrations of his thesis that national parties are not based upon casual or temporary groupings ranged in support of grab-bag party platforms, but rather upon coalitions of economic interest-groups more or less enduringly combined in arrangements which seem to each group more effectively to promote or preserve its interests than any other apparent or immediately possible alignments. Upon the basis of relative party strength at the elections of 1860, 1876, 1896, 1920, twelve political sections are discovered. No definite relationship is found to exist between the prevalence of one party or the other and the urban or rural character of an area. Both parties are farmer, labor, business-man parties. But an examination of party strength in the metropolitan, urban, semi-urban, and rural congressional districts of the twelve agricultural regions recognized by the United States Department of Agriculture," lets in the light upon the realities of national politics." The regional economic influences are reflected in the distribution of partisan strength among the political sections into which the country is divided.

The central portion of the book is devoted to a detailed historical analysis of the partisan alignment of sections from the time when

cotton was king to the present. Strikingly there appears the regrouping of sections precipitated when the silver issue was forced upon the country, making the east more or less permanently conservative, as the north had coalesced into opposition to the extension of slavery when the Republican party took the field in 1856 and 1860. One sees that issues do not separate parties, but destroy them. That parties may succeed one another in office without affecting materially the persisting combination of sections is evidenced by the relative stability of the distribution of party strength during the periods 1902-1910 and 1910-1920, as well as by the continued allegiance of sections to their respective parties from 1872 to 1892. Professor Holcombe would deny that "parties, like fishes, are steered by their tails."

The concluding chapters deal with the function of minor parties and the future of the bi-partisan tradition. The relative infrequency and weakness of third parties are attributed to the limited field of national power, the method of electing the president, and the use of primary elections in selecting party candidates for Congress. "The prospects for such a realignment of parties (Conservative against Liberal) are not bright." The national politician desires a relatively durable and at the same time not too inharmonious combination of interests. Of a question other than such as fit in with these desires, perhaps Senator Key Pittman is right: "You've got to take it out of politics or you can't win." The author believes however, that one or another of two new combinations of sectional interests might be formed,—either the graingrowers and the urban industrial wage-earners, or the more strictly agrarian elements, north and south. No party which represents only a single interest can attain great power in national affairs—a fact which constituted in Madison's opinion one advantage of an extensive national domain for the republic.

Professor Holcombe has conducted his study logically, building in effectively the materials of party history. The student of politics will profit by contact with this acute analysis of party composition and will experience difficulty in sustaining an attack upon the author's conclusions. The reviewer is somewhat perturbed over the 117 close congressional districts lying within agricultural regions where one or the other party may show fairly decisive predominance. Why should these particular districts be close?

It is probably true, as former Representative Pell is reported to have said, that every great party must possess a "foundation of fools," but perhaps these could be furnished by the 75 per cent of

the voters who are governed by tradition, according to Professor Merriam, as well as by those who are consciously aware of any regional economic interest. Both Bryce and A. D. Morse have expressed the opinion that sectional groupings may be giving way in the United States to divisions drawn by horizontal lines. The progress in this direction does not seem to have been rapid nor extensive, but the increasing urbanization of the country may be blurring the strictly sectional differences.

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Non-Voting: Causes and Methods of Control. By C. E. MERRIAM and H. F. GOSNELL. (Chicago: University of Chicago Press. 1924. Pp. 287.)

If scientific methods seem hitherto to have found too little favor with American politicians, political scientists must admit that they themselves are largely to blame. Consider, for instance, the matter of voting at public elections. For years there has been discussion of the problem of nonvoting on the part of duly qualified electors. There has been much controversy over proposed remedies for the alleged evil, such as compulsory voting. But political scientists have been no less backward than politicians in applying the methods of science to the solution of the problem. Too long they have contented themselves with "academic" arguments founded on conjecture and hearsay, while the data upon which alone a valid judgment could be based have remained obscure.

Now come Professor Merriam and Dr. Gosnell with their study of the causes of nonvoting at the Chicago mayoralty election of April 3, 1923. They give us the facts. They asked some six thousand nonvoters at that election to explain why they failed to vote. They chose these nonvoters in such a way as to form as fair a sample as possible of the whole body of nonvoters. They tabulated and analyzed the answers to their questions. They really know what reasons weighed most heavily in the minds of the nonvoters at that particular election. They can draw sound inferences concerning the methods of dealing with nonvoters likely to prove most efficacious at other elections conducted under similar conditions. Their work is a solid specimen of applied political science, for which teachers of government everywhere will feel deeply grateful.

But it is not enough, as Messrs. Merriam and Gosnell themselves

have pointed out, to make a study of the causes of nonvoting at one election in one city. We need to check the results of this investigation by similar studies in other places under different conditions. Probably presidential elections would reward the scientific inquirer more richly than local elections. But on the basis of this first experiment at Chicago it ought to be possible to make a series of investigations by means of which a political scientist could pronounce a final judgment on such expedients as compulsory voting with all the assurance of a chemist proving the quality of a new paint-remover or a biologist testing a germicide.

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The Origins of the War of 1870. New Documents from the German Archives. By ROBERT HOWARD LORD. (Cambridge: Harvard University Press. 1924. Pp. xv, 305.)

One of the principal gaps hitherto existing in the documentary materials for the story of the fateful ten days of July 1870 is filled by this publication of the correspondence which passed through the German Foreign Office during that period. A number of documents from the Austrian and Spanish archives are added, which throw still further light on certain phases of the incident. In a concise and thoroughly adequate introduction of 115 pages, Professor Lord has correlated this new material with all the older evidence, checking every possible detail and reconstructing the German side of the negotiations with a close approach to completeness. Although there is room for differences of opinion on the interpretation of certain documents, this account is as solid in structure as it is readable in form, and escape from its conclusions is difficult.

The verdict on responsibility for the outcome of the incident, which emerges from both narrative and documents, turns heavily against Bismarck. Concerning the phases preceding his avowed decision, reached by July 12, to turn it into an occasion of war, Professor Lord observes: "That since the beginning of the crisis in July he had maintained a perfectly intransigent attitude, which, but for the action of the King and the Hohenzollerns, would have made war inevitable, can scarcely be denied, although his aims during the earlier period . . . are not so clear" (p. 70). A noteworthy point is made of the "summons to explain her intentions" which the Chancellor proposed to address to France after the Hohenzollern candidacy had been with-

drawn and before he had learned of the French demand for guaranties against its renewal. Had France not thus reopened the incident, such a project insured, as Professor Lord puts it, that "there would still have been a war, nevertheless" (p. 99).

As a study in war responsibilities, the interest of this work transcends even the fact that it deals with the origin of the latest European struggle which preceded the war of 1914 and laid the foundations of the international order out of which the recent conflict arose. So successfully did Bismarck conceal his own moves and take advantage of his opponents' blunders that public opinion in his own country and, indeed, in the world at large, confidently exculpated Germany and condemned France. Certainly the French government of the period can never escape a due share of blame for its reckless and arrogant conduct; but Bismarck now occupies the pillory beside Gramont. Students of the origin of the late war should, therefore, find food for thought in the statement: "In the eyes of the German public the *Kriegsschuldfrage* for 1870 was as definitely settled against France as in the minds of the French public today the similar question about 1914 is settled against Germany.

JOSEPH V. FULLER.

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BRIEFER NOTICES

In the field of state government several reports have been published during the past two or three years, which merit comment. A special commission on state administration and expenditures made to the Massachusetts general court in January, 1922, a report which may well serve as a model of clear and systematic presentation. The commission was created primarily for the purpose of considering the extent to which the state administrative reorganization in Massachusetts complied with the requirements of the constitutional amendment in that state. The report limits itself to a consideration of state governmental problems. Both in its brevity and in its manner of discussion, the report is worthy of study and imitation.

In 1923, a plan of reorganization of state departments, boards and commissions (p. 260) was submitted by the state auditor of North Carolina, to the governor and general assembly. This proposed a plan of sixteen administrative departments and a number of advisory and non executive boards. Thirty-nine boards and commissions would

be abolished, and their functions transferred to one of the proposed departments.

A committee on simplification and economy of state and local government made a report to the general assembly of Virginia in January, 1924. This report (p. 234) deals with problems of both state and local government, although local government receives relatively slight attention. So far as it deals with state government, the report is compact and clear cut. It is based upon an understanding of the specific problems local to the state of Virginia.

The most extensive of recent reports in the field of state government is the report of the efficiency commission of Kentucky on the government of Kentucky, submitted to the governor and general assembly of Kentucky on January 1, 1924. Several sections of this report were first published in a series of pamphlets, and the complete report is included in two large volumes (pp. 672, 707). About half of the first volume deals with finances and taxation, and the remainder of this volume includes sections on administrative organization, general assembly, judiciary and county government. The second volume includes a more detailed discussion of the administrative departments and activities. A good deal of the work in this report is well done, but the different portions of the report are of unequal value. Many of them are based upon what appears to be an inadequate investigation of conditions in the state of Kentucky. Some of them could apparently have been written without specific investigation of the detailed problems of the state to which the report relates. Throughout a number of the specific investigations contained in the two volumes one is struck at times by an attitude, such as is indicated in the following statement, with reference to the commission system of county government in Kentucky (Vol. I, p. 573): "But even without specific investigation into the merits of the commission plan as actually functioning in Kentucky it is safe to assert, in the light of overwhelming experience in the counties and cities of other states, that a small board representing larger units and elected specifically to the governing or fiscal board as such (rather than as an incidental to judicial office) is the preferable type." This is, of course, the easier and simpler way of disposing of governmental problems, but students of government and probably the general assembly of Kentucky would be more aided by the presentation of the results of a specific and detailed investigation in this matter.

A study on administration of the state of Minnesota (p. 71), pre-

pared by the Municipal Reference Bureau of the state university, has been issued under the auspices of the League of Minnesota Municipalities. This gives an account of the existing system of administration, with a number of charts.

An organization chart of the executive branch of the government of the state of Indiana, compiled by Professor Frank B. Bates of Indiana University, has recently been published.

A History of Political Ideas by C. R. Morris and Mary Morris (G. P. Putnam's Sons, pp. xii, 190) does not attempt to cover the entire history of political thought. It is interpretive and critical rather than historical in its point of view. A brief chapter on Plato and Aristotle is followed by a discussion of the Roman Empire. Chapter III on the Middle Ages is the best chapter in the book, and represents the results of the revived interest in medieval political theory among English scholars. Chapter IV deals with the Reformation and the absolute sovereignty doctrines of Hobbes. Chapter V is an appreciative study of Rousseau's theory of general will. After Rousseau, only Austin, Green, Hegel and Bosanquet are given consideration. The last chapter, on Modern Theories of the State, is decidedly unsatisfactory.

More than half of the entire volume is devoted to a discussion of Hobbes, Rousseau, Green, and Bosanquet. Locke, who is cited in the index as Richard (?) Locke, is given one scant page. No attention is given to the development of political thought outside of England during the past century, and the work of the pluralists, even in England, is referred to only indirectly. As a study of certain phases in the development of the theory of the nature of the state and of its sovereignty, the volume has some value. Its title is misleading to one who expects a survey of the general field of political theory. Its aim is to "estimate the permanent contribution which certain fundamental ideas have offered toward the advancement of human political wisdom."

Conservatism, Radicalism, and Scientific Method, an Essay on Social Attitudes, by A. B. Wolfe (Macmillan, pp. xiv, 354) is an economist's view of social psychology and social ethics rather than a treatise on politics. Professor Wolfe is concerned with conservatism in general rather than with political, economic, religious, or aesthetic conservatism; he does not raise the question whether the true conservative is conservative on all issues. Probably the most interesting parts of

the book are those dealing with the motivation and characteristics of conservatism and radicalism, and with the contrast between the scientific attitude and "popular-mindedness." Professor Wolfe starts on the assumption of a consistent, mechanistic, deterministic view of nature and adheres to behavioristic psychology "as the only psychology which gives promise of consistent scientific quality." He believes that his ethics, revised utilitarianism, are given an objective scientific basis by this new psychology. The author is apparently only half conscious of the breach he makes in his mechanistic-behavioristic structure when he wishes to control further developments by an improved human character, not only guided by science but converted to Christianity.

These Eventful Years (Encyclopaedia Britannica Co., 2 volumes, pp. 692, 661) is a compilation of articles on recent history and events by some of the foremost living authorities. After an introduction of about two hundred pages giving a general survey of developments during the last decade, there follow eleven chapters devoted to the World War, its causes, diplomacy, how the war was actually carried on, the most important battles on land and sea, etc. Next come eight chapters dealing with some of the results of the war and covering such subjects as the League of Nations, reparations, taxation, social unrest, wages and so on. After this there are over thirty chapters, each outlining the principal events during the twentieth century in the various countries or sections of the world. For example, there is in this part of the work a chapter on "Ireland's Problems" by Sir Horace Plunkett, "The United States Becomes a World Power" by John H. Latané, "Belgium as I Saw It" by Brand Whitlock, and "Japan Enters the World Arena" by M. Hanihara. The work is brought to a close with about twenty chapters on recent developments and tendencies in education, religion, exploration, science and invention, literature, music and art. The list of contributors is a most imposing one containing the names of leading authorities from all parts of the world, many of whom have played an active part in the events which they relate. To name them all would be tedious but in addition to those mentioned above the contributors include Admiral Jellicoe, Rear-Admiral Sims, General Ludendorff, Colonel Edward M. House, Sir Valentine Chirol, H. G. Wells, Bertrand Russell, Professor J. Arthur Thomson, Madame Curie, James Brown Scott, President Angell of Yale, Professors Thomas N. Carver, Charles H. Haring and Carleton J. H. Hayes. The work is of value, therefore, not only for

its timeliness but also because of the reputation of its authors and the fact that it presents widely differing views on questions that are so close at hand as to require varying interpretations.

The New Larned History for Ready Reference, Reading and Research (C. A. Nichols Publishing Co., Springfield, Mass., 12 volumes, pp. 10, 855), the individual volumes of which have been described from time to time in the *Review* during the last two years, is now complete with the appearance of the twelfth volume. The work is of especial value to students and teachers of government because of the emphasis placed upon political events and the attention paid to constitutions and constitutional history. For example, the reader will find here the constitutions of practically all the civilized countries of the world including the new states of Europe, the Irish Free State, etc., together with their history. For each state in the American Union there is a detailed outline of its history and an account of recent developments in government. Almost an entire volume is devoted to the World War and the treaty of peace and there is a long section dealing with the League of Nations. The usefulness of the compilation is increased by numerous cross references, selected bibliographies and an eighty-page list of works from which quotations are taken. This valuable and convenient work should have a place in every reference library and in every complete collection of books on history and political science.

Among the recent publications of the Yale University Press are two books containing some of the lectures delivered at the Institute of Politics at Williamstown in 1923. *Approaches to World Problems* (pp. 126) includes an address by the Earl of Birkenhead on "Problems Left by the Great War;" an address by General Tasker H. Bliss on "World Relations in Their Bearing on International Peace and War;" and discussions by Philip Henry Kerr of "World Problems Today," such as Africa and Asia, peace plans of today and international law and world peace. *The Greatest Experiment in History* (pp. viii, 216) by Sir Edward Grigg is an account of the growth of the British Empire and some of its immediate problems. Among the most interesting of the lectures are those on the Near Eastern question, British imperialism in Egypt, India yesterday and today, American and British imperialism compared. Sir Edward has a most happy method of expressing his ideas and the book is not only stimulating but readable from cover to cover.

The University of Chicago Press has recently published the Harris Foundation lectures for 1924 in three volumes; *The Occident and the Orient*, by Sir Valentine Chirol; *Germany in Transition*, by Professor Herbert Kraus; and *The Stabilization of Europe*, by Charles de Visscher (pp. xi, 190), professor of international law at the University of Ghent. The lectures cover about three-fourths of the last-named book, the remaining pages reproducing the texts of the Treaties of Mutual Assistance and of Disarmament and Security, and the Protocol for the Pacific Settlement of International Disputes.

In these lectures Professor de Visscher devotes himself particularly to the problems of the minorities and of security, with which is closely related the economic readjustment of the countries concerned. He regards the problem of nationalities as a fundamental moral European problem and shows how the plebiscites have reflected this problem. From the economic point of view the problem of European communications is contrasted with the American, and the marked progress in international regulation is explained.

The author emphasizes the need of established military sanctions if Europe is to be secure, even though other sanctions may aid, but self-interest will be an important factor, as military and political policies may not be identical. The only place where European and other political problems may be discussed impartially is Geneva, and the League of Nations is the sole organization functioning in their solution. Professor de Visscher says of the League, "in spite of everything, it is for Europe the only light in the midst of darkness, to guide the efforts of men of good will."

The Reasonableness of the Law: The Adaptation of Legal Sanctions to the Needs of Society by Charles W. Bacon and Franklyn S. Morse (G. P. Putnam's Sons, pp. xii, 400) aims to introduce the layman to the essential principles and lines of development in some of the major departments of American jurisprudence. After a brief introductory sketch of the origins of our governmental systems, state and federal, a section is devoted to each of the following fields: Constitutional Law, the American Common Law, Equity, International Law, and Statute Law. The method used throughout is to present in brief compass a statement of the legal principle under discussion and to support it by a rather lengthy quotation from a judicial opinion. Apart from the stylistic disadvantages involved in this method it has necessitated such compression of the text material as to impart a somewhat dogmatic

tone to the whole book, while the excerpts from the decisions are not extensive enough to be of much independent value. The book has its use, however, as a nontechnical presentation of material usually beyond the reach of the layman.

Lectures on Legal Topics (Macmillan, pp. 591) is a collection of addresses delivered before the Association of the Bar of the City of New York during the court year 1920-1921. Many of the thirty-seven lectures are of interest only to the practitioner. Those of more general interest are the papers relating to legal education by Professors Austin W. Scott, Charles K. Burdick, and Dean Harlan F. Stone, the address of Mr. Elihu Root on "The Permanent Court of International Justice," and that of Mr. George W. Wickersham on "The Office of the Attorney-General." Other papers relate to the municipal court of New York City, the Workmen's Compensation Act of the State of New York, and the state taxation of corporations engaged in interstate commerce.

Professor Karl Gereis's *Introduction to the Study of Law* has been translated from the German by Albert Kocourek and is published by The Macmillan Company (pp. 375) in the Modern Legal Philosophy Series. It is a systematic survey of law and of the principles of legal study, a book not merely to read but to think through.

International Law Decisions and Notes (Naval War College, pp. 212) is a collection of cases relating to maritime warfare decided during the world war, some of which show the wide departure from earlier precedents which the prize courts of some of the belligerent countries made, at least in the latter part of hostilities.

Prisoners of War by Herbert C. Fooks (Stowell Printing Co., pp. 456) is one of the few studies made upon an important aspect of modern warfare—in the war of 1870-71, 300,000 prisoners were captured, while in the world war, the Americans alone captured 450,000 Germans. Mr. Fooks examines the meaning of "prisoners of war" and discusses such subjects as the transportation of prisoners; the organization, police and discipline of prison camps; the special disposition of officers, and the question of parole.

Nationalism and Religion in America: 1774-1789 by Edward Frank Humphrey (Chipman Law Publishing Company, pp. viii, 536) has for

its general thesis that the same spirit of nationalism which brought about the War of Independence and the Constitution of the United States caused also the nationalizing and reorganization of the various colonial churches, and that the same persons and the same ideas were responsible for the similar developments in church and state. The book is in three parts. Most of Part II is simply the constitutional history of the various religious groups. Part III is a series of chapters discussing rather briefly the influence of churches and their members on the constitutional history of America after the declaration of independence. Part I is of greatest interest to the political scientist. It is a study of the political theories of the church organizations and of individual churchmen on the subject of separation from England. It shows that clergy and laity not only felt alike on political questions, but felt alike for like reasons. Though the evidence reveals nothing very new, the author does a service in collecting it, and in presenting it in such a way as to demonstrate a widespread and distinctively nationalistic spirit on the part of the churches.

It becomes increasingly evident that the field of state history has been unduly neglected. The development of constitutional ideas within the states is as interesting as changes in the Federal Constitution and a knowledge of state politics is indispensable for a proper understanding of national politics. Recognizing this, Allan Nevins wrote his recent volume on *The American States During and After the Revolution, 1775-1789*, Macmillan, pp. 728). Now for the first time we have a satisfactory conspectus of state history, as distinguished from national history, during the formative period. To weave thirteen strands into a single fabric without confusion is, as the author confesses, "a difficult task." He has accomplished it and thereby produced a book which is of especial value to students of government.

Anglo-American Relations During the Spanish-American War by Bertha Ann Reuter (Macmillan, pp. 208) is a piece of work that has long awaited the searchlight of the historical investigator. That Great Britain was friendly to the United States at the time of the Spanish-American War is well known, but the causes of that friendship, its extent, its drift, and expression have never been thoroughly analyzed. The materials in the form of newspapers, periodicals, speeches, and many volumes of biography, autobiography, and letters have been accessible but no one before Dr. Reuter has ever attempted a system-

atic investigation of them. She has studied with profit not only the press sentiment of the United States and Great Britain but that of the British dominions as well. Her treatment of the interplay between public opinion and governmental policy is especially good. Noteworthy also is the careful handling of the effect of Spanish-American troubles upon Anglo-American relations in the Far East and upon Anglo-American rapprochement between 1898 and 1900.

The State of the Nation by ex-Senator Albert J. Beveridge (Bobbs-Merrill, pp. 267) contains six essays dealing with current political problems, five of which appeared originally in *The Saturday Evening Post*. While frankly popular in character the volume is of genuine value and interest as embodying Mr. Beveridge's mature views on present-day political issues. The first paper voices approval of the policy of nonparticipation in the League of Nations and the World Court. In two essays devoted to the Supreme Court and its work it is suggested that the court itself should adopt a rule requiring the concurrence of six justices in order to invalidate an act of Congress. A chapter on the railroad problem discusses the Transportation Act of 1920, urges the voluntary federal incorporation of interstate railroads, criticizes the Labor Board, and attacks government ownership. The paper on "Republic or Bureaucracy" sounds a warning against the extension of federal administrative functions, particularly the "bureaucratic drill-mastering of American business." There is a chapter dealing with the election and powers of the President.

Under the editorship of Thomas H. Calvert there has been issued by the Edward Thompson Company (Northport, N. Y.) a series of three volumes entitled *The Constitution and the Courts* (pp. 1169, 1114, 478). The contents include a reprint of the well-known treatise on "The Growth of the Constitution in the Federal Convention of 1787" by William N. Meigs. Immediately following is a monograph on "Constitutional Constitution and Interpretation" by the editor. It is based upon a review of judicial decisions. The arrangement conforms to the constitution, clause by clause, with copious annotations. The editor believes that the collection of cited cases is practically complete. He has in any case incorporated a great mass of the most useful material, quite the most extensive compilation of its kind. The work has apparently been done with much assiduity and care. The commentaries and annotations on the constitution occupy the first

two volumes, while the third volume contains the supplemental notes and the index. Teachers of the constitution will find this series of great value.

Constitutional Doctrines of Justice Oliver Wendell Holmes by Dorsey Richardson (Johns Hopkins Press, pp. ix, 103), is a sympathetic study of the views which most students of constitutional law now associate with Mr. Justice Holmes. Had it been published in 1920, when it was prepared, it would have been more novel, but might have gained fewer readers. Since 1920 the great jurist's eightieth birthday has been marked by the publication of his *Collected Legal Papers*, and the attention of the public has been directed repeatedly both to the beauty and vigor of his diction and to the breadth and freshness of his thought. "The life of the law . . . has been experience. . . . But the present has a right to govern itself so far as it can. . . ." How he has applied such a legal philosophy to constitutional questions during nearly forty years of service on the bench this monograph explains.

The Stafford Little lectures recently given by Charles Warren at Princeton have been published under the title *The Supreme Court and Sovereign States* by the Princeton University Press. The lectures have been enriched by the addition of notes and appendices.

The Evolution of a Politician by R. D. Bowden (The Stratford Company, pp. 248) strikes hard but not always well-measured blows at present political life and the conduct of government in the United States. Some of the author's criticisms are well founded, but few persons of judicious mind would agree that government and politics have been as thoroughly controlled and corrupted as he pictures by so-called "big-business," "monopoly corporations," "predatory wealth" etc., which is the central theme of the book. The author's program for reform is a far-sweeping and ambitious one and includes the following: (1) changes in political procedure such as the adoption of the short ballot, nonpartisan primaries, proportional representation; (2) congressional and administrative reforms including a seven-year term for the President, a responsible cabinet, a reorganization of the committee system in Congress; (3) political education.

The A. L. Burt Company has published *A Dictionary of American Politics* compiled by E. C. Smith (pp. 496). It includes brief accounts

of parties, measures, and men, explanations of political phrases, notable sayings, slogans, nicknames, and kindred things. While not exhaustive in the ordinary sense, the volume includes most of the odds and ends that any ordinary man would have occasion to go searching for. It is a useful addition to the existing stock of handbooks for ready reference.

A third edition of Professor P. Orman Ray's *Introduction to Political Parties and Practical Politics* has been published by Scribner's (pp. 691). Although the plan of the two earlier editions has been generally followed, virtually the entire book has been rewritten and much new material has been added. The references have been brought together into a single bibliography which is a model of its kind. A highly useful book has been notably improved, both in substance and in style, by this revision.

American Democracy Today by William Starr Myers (Princeton University Press, pp. 162) is a book of ten chapters on various aspects of contemporary American government—with such matters, for example, as presidential leadership, the position of the Senate, and democracy in war-time. The discussions in this volume would make good supplementary reading if used in connection with any one of the regular college textbooks.

William Allen White's *Woodrow Wilson* (Houghton, Mifflin & Co., pp. 527) is exactly what might be expected from its author—a brilliant survey, replete with trenchant passages, critical but sympathetic, with a never-failing emphasis on the dramatic and the picturesque. The book bears as its subtitle "The Man, his Times, and his Task," but not much is said about his times although there are occasional digressions into those fields of politics which happen to command the author's own interest. Mr. White has found biological explanations for the more outstanding Wilsonian traits, at least he believes that he has, and he works this thesis pretty hard. The heredity complex rather mars the book.

Among the several biographies that came from the press in time to do service during the presidential campaign, *The Preparation of Calvin Coolidge* by Robert A. Woods (Houghton, Mifflin & Co., pp. 288) is easily the best book in substance and in style. The author

begins with the assertion that the present incumbent of the White House underwent a more consistent and complete preparation for his high office than did any previous chief executive. Then he proceeds to trace this preparation, stage by stage, and through its long and varied course from Northampton to Washington by way of Boston. It is not mere adulation but a discriminating review, written with restraint and distinction.

To its series of books containing the writings and addresses of the Hon. Elihu Root, the Harvard University Press has recently added an eighth volume entitled *Men and Policies* (pp. 509). In addition to Mr. Root's addresses on various notable Americans (including Hamilton, Lincoln, Roosevelt, Cleveland and Choate) the present volume contains many of his war speeches, likewise his well-known Carnegie Hall address on the Constitution of the United States. A book with a very similar title is Senator George Wharton Pepper's *Men and Issues* (Duffield, pp. 308). It contains a series of stimulating and readable addresses on a variety of subjects ranging from the Permanent Court of International Justice to Practical Politics for the College Man.

Under the title *Our American Kings* (Century Company, pp. 257) Frederick L. Collins has included concise and illuminating pen-portraits of fourteen contemporary governors. The author has endeavored to tell who these men are, rather than to explain what they are doing. The book deals with interesting personalities, of course, and is decidedly readable.

The late Maurice F. Egan—journalist, diplomat, scholar, poet, critic, and happy warrior in divers other fields as well—left an autobiography which has now been published by Messrs. George H. Doran Company. It bears the appropriate title *Recollections of a Happy Life* (pp. 374). Wise, witty, and whimsical, it deals with life on two continents, and with the wide range of happenings that came within the author's ken. The reader will find in the book many interesting sidelights on the political history of the past fifty years.

The anonymous "Gentleman with a Duster" has given us another series of English political portraits, this time entitling his volume *The Windows of Westminster* (Putnam's, pp. 193). His incisive pen touches

up some of the more prominent members of the Unionist party, including Mr. Stanley Baldwin, Sir Robert Horne, Neville Chamberlain and a half dozen others. Those who recall the author's earlier *Mirrors of Downing Street* need not be assured that these pen-portraits are most skilfully drawn by one who (whoever he may be) is thoroughly versed in English politics and social life.

The volume of *Essays and Adventures of a Labor M. P.* by Josiah C. Wedgwood (Huebsch, pp. 263) contains twenty-two chapters which cover a wide range and are mostly of a reminiscent character. The author served in the Boer War, the Gallipoli campaign, and as a member of the Labor cabinet. On all these battle fronts he accumulated experiences which he now recounts to his readers in a more or less national vein.

In *The English Constitution in Transition, 1910-1924*, Sir John A. Marriott, M. P., has written a supplement to his well-known volume, *English Political Institutions*. This is an authoritative and judicious summary of the principal constitutional and political changes in the government of Great Britain and of the British Empire in the last fifteen years.

Professor L. M. Larson's *History of England and the British Commonwealth* (Holt, pp. 911) is the latest addition to useful textbooks in its field. The author has endeavored to feature those aspects of English history which have the greatest interest and significance for the American student.

A new edition of Clive Bigham's *Prime Ministers of Britain* has been issued by Messrs. E. P. Dutton & Co., bringing the survey down to 1924.

An English translation of Joseph Barthelémy's *Gouvernement de la France*, by J. Bayard Morris has been published by Brentano (pp. 222). The book will prove useful to American students not only as a general description of the French political system but by reason of the excellent chapters on such topics as foreign policy and public finance. Strange to say, Professor Barthelémy has given no attention to the French party system.

Denis Gwynn's *Catholic Reaction in France* (Macmillan, pp. 186) deals with the more important political phases of the Catholic movement in France during the past twenty years and especially since the war. The book is written from the standpoint of a sympathetic foreign observer.

The Collapse of Central Europe, by Karl F. Nowak (Dutton Company, pp. viii, 365) contains, as the result of extensive research, much important material about the political complications that arose in Germany, Bulgaria and especially Austria during the World War. It also traces the Haldane-Grey-von Kuhlmann plan for peaceful and joint economic expansion of England and Germany, intelligently explains the situation at Brest-Litovsk, and considers at length the Wilsonian influence upon the policies of Mittel-Europa. The book is over-organized, with resultant confusion, and, although fairly well documented, it has neither references nor bibliography.

The Present State of Germany by J. H. Morgan (Small, Maynard & Co., pp. 107) is a fair analysis of conditions in the Reich by an English military officer who has served on the Inter-Allied Commission of Control.

The Awakening of Italy, by Luigi Villari (Doran, pp. 292) is the story of Italian politics since the beginning of the war, written from a strongly Fascist point of view. This is the clearest and most forceful presentation of the case for Fascism that has thus far appeared in English.

We have seen no more vivid account of Russian conditions during the years 1917-1920 than that contained in Pitirini Sorokin's *Leaves from a Russian Diary* (Dutton, pp. 310). The author, who is now a professor in the University of Minnesota, gives a recital of his personal experiences and his narrative is more enlightening with respect to political and economic conditions than any essay on that subject could be.

The Evolution of French Canada by J. C. Bracq (Macmillan, pp. 467) deals not only with the history but with the achievements of the French-Canadian race, especially during the past hundred years. The author quotes from a great variety of sources, authoritative and otherwise, to

show how substantial these achievements have been. A Californian, writing of his native heath, could be no more partial to superlatives. On the whole, however, the book is well put together and its readability atones, in large part at least, for whatever it may lack in scientific discrimination.

The Political Novel by Morris E. Speare (Oxford University Press, pp. 377) is of equal interest to students of political science and of English literature. There is a good chapter, for example, on Disraeli's political philosophy as it appears in *Coningsby*, *Lothair*, and *Endymion*. There are equally interesting discussions of "George Eliot and Radicalism," and of the American political novel, more especially the writings of Winston Churchill and Paul Leicester Ford.

A comprehensive report of 600 pages, on *Public Employment Offices—their purpose, structure and methods*, has recently been issued by the Russell Sage Foundation. This is based on a five-year study, including more than seventy cities in the United States and Canada. The report recommends the establishment of a nation-wide system of public employment offices, in which the national, state, and local governments will coöperate, to be administered under a board composed of the secretaries of agriculture, commerce, and labor, with the assistance of a national advisory council, and local committees representing employers and employees.

Professor Harley Leist Lutz has written an excellent book entitled *Public Finance* (Appleton & Company, pp. xvi, 681). The object the author set himself was "to translate into concrete terms the principles which underlie the levy of taxes, the expenditure of public money and the use of public credit." He has given us a well-balanced volume of broad scope in which the complex data of the subject are handled with skill and judgment. In so far as it is possible to give adequate consideration to some three hundred topics in the scope of less than 700 pages, Professor Lutz shows a masterful hand. As an introduction to the subject, and particularly for the general reader, this new volume will be most useful.

A valuable study is the report on *The Government of Cincinnati and Hamilton County* (p. 531), based on a survey of the city and county governments and the business activities of the board of education,

made under the direction of Lent D. Upson for a survey committee of the republican executive and advisory committee of Hamilton County. This makes a number of recommendations for increasing revenue, decreasing expenses and increased efficiency; and proposes charter amendments for a small nonpartisan council and state legislation on taxes, budget and city-county consolidation.

The League of Minnesota Municipalities and Municipal Reference Bureau of the University of Minnesota have begun the issue of a series of pamphlet publications. These include the following titles: Municipal Budget; Municipal Home Rule in Minnesota; Administration of the State of Minnesota; Licensing Transient Merchants and Peddlers; and Statutory Limitations on Property Taxation.

The Oklahoma Bureau of Municipal Research in the state university has published a 200 page pamphlet on *Some Problems in Oklahoma Finance*, by Frederick F. Blachly and Mirriam E. Oatman.

A Study of the *Tax Problem in Wisconsin* has been published by the National Industrial Conference Board. This includes a comparison of state and local tax burdens, an examination of income and inheritance taxes, and the taxation of forest lands.

Although *Money*, by William Trufant Foster and Waddill Catchings (Houghton Mifflin Co., pp. viii, 409), is published for the Pollak Foundation for Economic Research, it is not a work of research, but an interesting and readable treatment of current business problems connected with the price level, bank credit, and the business cycle. The general reader will probably be more interested in the authors' treatment of a political problem of historical and current importance, the gold standard. Another book which brings out sharply the close relationship between modern economic and political problems is *Stabilization: An Economic Policy for Producers and Consumers*, by E. M. H. Lloyd (Knopf, pp. 141). The author pleads for stabilization of the general price level and of leading raw materials by government regulation and international agreement.

Outlines of Economic History in the Nineteenth Century (Ronald Press, pp. vi, 286) by Garrett Droppers, is a study based upon lectures given at Williams College. The emphasis in the narrative is

placed upon commerce and finance. Little space is given to industrial development. The views presented are those common to the older literature; perhaps from necessity, for it would certainly require more space to indulge in the refinement of statement that would be demanded by inclusion of the results of recent critical work. References to recent works, however, might have been included in the notes and references.

A noteworthy addition to available text-books is H. U. Faulkner's *American Economic History* (Harper's, pp. 721). It is well-balanced, temperate in tone, and workmanlike in execution, besides being written in a style that he who runs may read. Too much praise can hardly be given to the bibliographical apparatus which the author has provided at the end of each chapter.

Longmans, Green and Company have recently published a volume on *Internal Improvements and State Debt in Ohio*, by E. L. Bogart, of the University of Illinois.

J. B. Morman's *Farm Credits in the United States and Canada* (Macmillan, pp. 406) gives a comprehensive account of the farm loan and credit movement during the past ten years. It explains the question in all its phases, both economic and political.

Messrs. Benjamin H. Sanborn & Company are the publishers of a text-book on *Elementary Sociology* by Ross L. Finney (pp. 234), intended for use in high schools and junior colleges. It is called a "constructive" text-book, with the explanation that it is not primarily a discussion of "social problems." The author complains that the teaching of sociology has too heavily stressed the problems of poverty, crime, divorce and other social disorders. This emphasis has had a morbid effect on young minds, making them imagine that they ought to become agitators, reformers or social workers, and filling their heads "with queer, half-baked ideas." Professor Finney, therefore, sets himself to explain the normal rather than the abnormal functioning of social life. The book is well-arranged and clearly written. The questions at the end of each chapter are especially good.

Outlines of Introductory Sociology, by C. M. Chase (Harcourt, Brace & Co., pp. 980) is a book of selected readings which covers a wider

range than most publications of its type. In addition to the usual topics, for example, there are chapters on public health, capital and labor, and immigration. At the close of each chapter there are useful references.

A pamphlet report on *Forsyth County, Economic and Social*, by Charles N. Siewers, prepared under the department of rural social economics of the University of North Carolina, has been published by the University.

E. P. Dutton and Company have issued a volume on *Women and Leisure, a Study of Social Waste*, by Lorine Pruette, with an introduction by Harry Elmer Barnes.

RECENT PUBLICATIONS OF POLITICAL INTEREST BOOKS AND PERIODICALS

CLARENCE A. BERDAHL

University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

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